DOCKET NUMBER 121-1

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UNITED STATES BANKRUPTCY COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

In Re: FRANCIS J. LOPEZ, Alleged Debtor.	Case No. 05-05926-PBINV **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR AN ORDER IMPOSING TERMINATING SANCTIONS AGAINST THE DEBTOR** **[BIFURCATED PHASE II]** Date: January 28, 2008 Time: 10:30 a.m. Judge: The Honorable Peter W. Bowie Ctrm: 4

Pursuant to Rule 37(b) of the Federal Rules of Civil Procedure ("FRCP"), made applicable to these proceedings by Rule 9014(c) of the Federal Rules of Bankruptcy Procedure ("FRBP"), Petitioning Creditors respectfully submit their Motion for an Order from this Court imposing terminating sanctions against Lopez by striking his answer and entering an Order for Relief forthwith.

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I. INTRODUCTION

This is the third sanctions motion that the misconduct of the alleged Debtor — Francis J. Lopez ("Lopez") — has forced the Petitioning Creditors to bring in order to redress his continuing pattern of misconduct.[1] The first such motion resulted in an Order from this Court granting Petitioning Creditors' request for evidentiary sanctions, and deferring an award of monetary sanctions.[2] Unfortunately, deferring the monetary sanctions award did not motivate Lopez to perform his duties as a litigant, and instead, Lopez continued his unreasonable delays and game playing. Based on that, on November 19, 2007, the Court granted Petitioning Creditors' second sanctions motion, and ordered Lopez to pay Petitioning Creditors $8,130.50 in monetary sanctions on or before December 19, 2007 (30 days from the date of the Court's order).[3] Lopez has failed to pay any portion of those sanctions.[4]

At this point — *two and a half years after this involuntary petition was filed* — the record developed to date gives the Petitioning Creditors no reason to believe that Lopez will comply with any additional discovery order imposing monetary sanctions. Thus, a terminating sanction appears to be the only meaningful response to Lopez's consistent course of misconduct that will serve to process this case forward and to halt the threat of further prejudice to all creditors that is engendered by further delay.

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[1] See, Docket Item 105 (Petitioning Creditors' "Motion for an Enforcement Order: (1) Imposing Monetary Sanctions Against the Debtor; and (2) Imposing Evidentiary Sanctions Against the Debtor"); and Docket Item 114 (Petitioning Creditors' "Motion for an Enforcement Order Imposing Monetary Sanctions Against the Debtor").

[2] See Docket Item 108.

[3] See Docket Item 117.

[4] See the "Declaration of L. Scott Keehn, etc." filed concurrently herewith ("LSK Decl.") at ¶ 4.

II. DISCUSSION

A. Terminating Sanctions are Warranted in Light of Lopez's Course of Misconduct and Refusal to Comply with this Court's Order Imposing Monetary Sanctions.

"Federal Rule of Civil Procedure 37 authorizes the district court, in its discretion, to impose a wide range of sanctions when a party fails to comply with the rules of discovery or with court orders enforcing those rules."[5] Here, FRCP 37 is made applicable to these proceedings by FRBP 9014(c), and grants this Court broad discretion to tailor appropriate sanctions for Lopez's unjustified refusal to comply with this Court's 11/19/2007 discovery order.[6]

Where, as here, an alleged debtor has engaged in a course of serious discovery misconduct, which includes failure to comply with court orders, the court may issue a terminating sanction consisting of an order striking the debtor's answer and entering an Order for Relief.[7] Lopez has repeatedly demonstrated that he is unmoved by either the threat of monetary sanctions, or an actual order from this Court imposing the threatened monetary sanctions.[8] He has once again *thumbed his nose* at Petitioning Creditors and this Court's authority by simply refusing to pay the monetary sanctions which this Court ordered him to pay. Based on that blatant display of defiance, it appears highly unlikely that Lopez would comply with another order imposing monetary sanctions. Fortunately, Petitioning Creditors do have a viable remedy in the form of terminating sanctions.[9] Considering the totality of circumstances as they are memorialized by the

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5 *Wyle v. R.J. Reynolds Industries, Inc.*, 709 F.2d 585, 589 (9th Cir. 1983).

6 *Matter of Visioneering Const.*, 661 F.2d 119, 123 (9th Cir. 1981) ("The bankruptcy court, faced with an obstreperous alleged bankrupt, unequivocally had the power to apply Fed.R.Civ.P. 37 sanctions for obstruction of discovery"); *In re Williams*, 215 B.R. 289, 299 (Dist. Ct. D.R.I. 1997) ("the choice and severity of the sanction imposed is a matter reserved to the sanctioning court's discretion").

7 *In re Rice*, 14 B.R. 843, 846 (9th Cir.BAP 1981); *Matter of Visioneering Const.*, supra, 661 F.2d at 123 (court's order striking alleged debtor's answer was an appropriate sanction since the debtor had "deliberately and obstinately refused to cooperate with discovery requests and court orders"); *De Falco v. Oak Lawn Public Library*, 25 Fed.Appx. 455, 457 (7th Cir. 2001) (terminating sanctions appropriate where the plaintiff "flouted the district court's order and exemplified the delay and avoidance to which the court referred").

8 See, Docket Items 105 & 108.

9 See, FRCP 37(b)(2)(A).

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record of Lopez's pervasive misconduct in this case, such terminating sanctions should be imposed forthwith.[10]

B. Immediate Entry of the Order for Relief is Further Warranted in Order to Eliminate the Prejudice of Potentially Growing Priority Gap Claims.

Delay has been the pervasive and foreseeable consequence of Lopez's continuing refusal to either participate in good faith or obey the orders of this Court. Whether by design or happenstance, that delay exposes all creditors to the unnecessary risk of dilution of the value of their claims — indeed the Bankruptcy process in its entirety — by the unending and uncontrollable expansion of priority gap claims. Lopez remains at liberty to create an unlimited variety of "Gap Claims"[11] which will slip ahead of all of the pre-petition unsecured creditors in priority. The plight of those creditors is exacerbated by the automatic stay which prevents them from taking any enforcement action to preserve the economic utility of their claims.[12] The risks of prejudice are further heightened by the initial delay that was occasioned by the bifurcation of the case — at Lopez's request — so that the Involuntary Gap Period was necessarily rendered longer than the norm.

What mischief has already occurred behind the shield of delay, and what further roguery may yet occur before the Order for Relief is ultimately entered, is impossible to ascertain. But, what can be seen with absolute clarity is that Lopez will not willingly discharge the duties of a litigant to participate in good faith in the process, nor will he obey the lawful orders of this Court. He has used his *passive/aggressive* tactic of delay to the prejudice of the creditors, and that prejudice must be truncated so that the risks of an expanding pool of priority claims is held in check.

Lopez's past and present disobedience is particularly troubling because it demonstrates that — beyond his willingness to disobey court mandates — he is impervious to the threat of

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[10] *Cine Forty-Second St. Theatre Corp. v. Allied Artists Pictures Corp.*, 602 F.2d 1062, 1068 (2nd Cir. 1979) ("sanctions must be weighed in light of the full record in the case").

[11] See 11 U.S.C. §§ 502(f) and 507(a)(3).

[12] See 11 U.S.C. § 362(a).

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monetary sanctions. He just refuses to pay them. So, what the fulness of time has demonstrated is that neither the threat, nor the actual imposition of monetary sanctions, has any real impact on Lopez. Given this demonstration that he will neither play by the rules, nor obey the Court's mandates, it is appropriate to truncate his continuing ability to dilute the value of the process to his pre-petition creditors and demean the integrity of the Court by imposing the one sanction that can not be ignored — the terminating sanction that puts a trustee in control and caps the universe of priority gap claims.

III. CONCLUSION

Patience is a virtue. But, like most virtues, it is vulnerable to exploitation, which converts its salutary objectives into a deplorable reality. This Court's patience has been beyond exemplary, while Lopez's exploitation of it has been unending, despicable, and without excuse. Because "*sanctions must be weighed in light of the full record in the case*",[13] here only a terminating sanction can set the scales aright. In the course of their three sanctions motions, the Petitioning Creditors have now thoroughly chronicled Lopez's extensive history of ignoring the mandates of both the discovery statutes and this Court's orders. His conduct is both inexcusable and intolerable. Based on that, and on all of the foregoing, Petitioning Creditors respectfully request that this Court issue an Order striking Lopez's answer and entering an Order for Relief forthwith.

Dated: December 27, 2007

KEEHN & ASSOCIATES
A Professional Corporation

By: //s// L. Scott Keehn
L. Scott Keehn
Attorneys for **Petitioning Creditors**

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[13] *Cine Forty-Second St. Theatre Corp. v. Allied Artists Pictures Corp.*, supra, 602 F.2d at 1068.

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DOCKET NUMBER 121-2

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UNITED STATES BANKRUPTCY COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

In Re: FRANCIS J. LOPEZ, Alleged Debtor.	Case No. 05-05926-PBINV **DECLARATION OF L. SCOTT KEEHN IN SUPPORT OF MOTION FOR AN ORDER IMPOSING TERMINATING SANCTIONS AGAINST THE DEBTOR** **[BIFURCATED PHASE II]** Date: January 28, 2008 Time: 10:30 a.m. Judge: The Honorable Peter W. Bowie Ctrm: 4

1. I am an attorney at law, duly licenced to practice before all courts of this State, and before the United States District Court for the Southern District of California. I am a shareholder of the firm Keehn & Associates APC, attorneys of record for Petitioning Creditors. I have personal knowledge of the factual matters stated herein.

2. The "Declaration of L. Scott Keehn in Support of Petitioning Creditors' Motion for an Enforcement Order: (1) Imposing Monetary Sanctions Against the Debtor; and (2) Imposing Evidentiary Sanctions Against the Debtor" was filed herein by my office on May 24, 2007, and is

incorporated herein by this reference.[1] In that Declaration, I summarized the delay and *bad faith* dilatory discovery tactics employed by Lopez during the 6-month period of December 3, 2006 through May 23, 2007.

3. The "Declaration of L. Scott Keehn Re: Motion for an Enforcement Order imposing Monetary Sanctions Against the Debtor" was filed herein by my office on October 19, 2007, and is incorporated herein by this reference.[2] In that Declaration I: (a) summarized the delay and *bad faith* discovery tactics employed by Lopez in connection with his deposition during phase two of these bifurcated proceedings; and (b) referred the Court to the Declaration of Timothy P. Dillon filed herein on September 27, 2007,[3] describing Lopez's similar pattern of *bad faith* and tactics of delay in other cases involving Petitioning Creditor Alan Stanly.

4. I was present at the hearing in this matter on November 19, 2007 when the Court granted Petitioning Creditors' second sanctions motion, and ordered Lopez to pay Petitioning Creditors $8,130.50 in monetary sanctions on or before December 19, 2007 (30 days from the date of the Court's order).[4] As of the date of this Declaration, Lopez has failed to pay any portion of those sanctions.

5. Petitioning Creditors have no reason to believe that Lopez will comply with any additional discovery order imposing monetary sanctions. Thus, a terminating sanction appears to be the only meaningful response to Lopez's consistent course of misconduct.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct, and that this Declaration was executed this 27th day of December, 2007, at San Diego, California.

//s// L. Scott Keehn
L. Scott Keehn

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[1] See Exhibit A, Docket Item 105 (attachment #2).

[2] See Exhibit B, Docket Item 114 (attachment #2).

[3] See Exhibit C, Docket Item 111 (attachment #1).

[4] See Docket Item 117.

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EXHIBIT A

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UNITED STATES BANKRUPTCY COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

In Re: FRANCIS J. LOPEZ, Alleged Debtor.	Case No. 05-05926-PBINV Involuntary Chapter 7 **DECLARATION OF L. SCOTT KEEHN IN SUPPORT OF PETITIONING CREDITORS' MOTION FOR AN ENFORCEMENT ORDER: (1) IMPOSING MONETARY SANCTIONS AGAINST THE DEBTOR; AND (2) IMPOSING EVIDENTIARY SANCTIONS AGAINST THE DEBTOR** **[BIFURCATED PHASE II]** Date: June 25, 2007 Time: 10:30 a.m. Judge: The Honorable Peter W. Bowie Ctrm: 4

I, L. Scott Keehn, declare:

1. I am an attorney at law, duly licenced to practice before all courts of this State, and before the United States District Court for the Southern District of California. I am a shareholder of the firm Keehn & Associates APC, attorneys of record for Petitioning Creditors. I have personal knowledge of the factual matters stated herein.

2. On November 03, 2006, my office served Lopez with Petitioning Creditors' First Set of Written Discovery for Phase II (the "Phase II Written Discovery"), consisting of: (1) First

Phase II Requests for Admission Propounded by Petitioning Creditors [10 Requests]; (2) First Phase II Request for Production of Documents by Petitioning Creditors [162 categories of documents]; and (3) First Phase II Interrogatories Propounded by Petitioning Creditors [35 Interrogatories]. True and correct copies of the Phase II Written Discovery are attached hereto, marked Exhibits A, B and C respectively. Lopez's responses were due on December 4, 2006.

3. On December 03, 2006, Lopez served his "Response to Requests for Admission Propounded to Alleged Debtor Francis J. Lopez (Phase II)." **Lopez's responses were deficient, and Lopez failed to verify the responses.**

4. On December 05, 2006, Lopez served his "Response to Interrogatories Propounded to Alleged Debtor Francis J. Lopez (Phase II). **Lopez's responses were deficient, and Lopez failed to verify the responses.** At the same time, Lopez served his "Response to Requests for Production of Documents." **Lopez's responses were deficient.**

5. On December 13, 2006, I sent a *meet and confer* letter to Lopez's attorney, M. Jonathan Hayes, notifying him of the deficiencies in Lopez's responses to the Phase II Written Discovery.

6. On December 15, 2006, attorney Hayes and I participated in a telephonic *meet and confer* conference wherein the parties agreed that Lopez would provide supplemental responses to the Phase II Written Discovery on or before January 12, 2007.

7. On January 12, 2007 – the Deadline for Lopez to provide the promised supplemental responses to the Phase II Written Discovery – **Lopez failed, without explanation, to provide supplemental responses to the Phase II Written Discovery.**

8. On January 19, 2007, I sent a follow-up *meet and confer* letter to attorney Hayes requesting an explanation regarding Lopez's failure to provide the promised supplemental responses to discovery, and notifying Lopez of the imminent likelihood of a motion to compel his responses to the Phase II Written Discovery. **Lopez failed, without explanation, to respond to that *meet and confer* letter.**

9. On January 29, 2007, Petitioning Creditors filed a Motion to Compel responses to the Phase II Written Discovery. **Lopez failed, without explanation, to respond or file an**

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Opposition to that Motion.

10. On March 10, 2007 – a Saturday, just two days prior to the scheduled hearing on Petitioning Creditors' Motion to Compel Lopez's responses to the Phase II Written Discovery – attorney Hayes emailed me approximately 155 pages of documents, purportedly in response to the "First Phase II Request for Production of Documents by Petitioning Creditors." **This last-minute "*document dump*" was improper because the documents: (1) were not responsive to the Requests, (2) were not organized by category of Request, and (3) consisted of at least 103 pages of pleadings filed in the San Diego Superior Court which are already in the Petitioning Creditors' possession. Lopez failed, without explanation, to explain the deficiencies and/or his failure to provide the agreed-upon supplemental responses.**

11. On March 12, 2007, I appeared at the hearing during which this Court granted Petitioning Creditors' motion to compel Lopez to provide supplemental responses to the Phase II Written Discovery.[1] The Court ordered Lopez to provide the supplemental responses on or before April 11, 2007. The Court — in open session — indicated that it was deferring its ruling on the request for monetary sanctions of $4,242 because: (a) it wanted the risk of those sanctions to serve as a *Sword of Damocles* to encourage compliance with the Court's order; and (b) Lopez would have to "work his way out of those sanctions."

12. On April 10, 2007, Lopez mailed my office a set of supplemental responses to the Phase II Written Discovery which were patently deficient in that, i.e., they failed to fully respond to the Interrogatories asked, failed to provide facts in support of asserted denials to the Requests for Admissions, and failed to produce responsive documents. True and correct copies of Lopez's supplemental responses are attached hereto marked Exhibits D, E and F.

13. On May 11, 2007, the parties, through their counsel, attended a status conference wherein this Court ordered Lopez to file proper supplemental responses to the Phase II Written Discovery on or before May 21, 2007. Later that afternoon, I met with attorney Hayes at my office regarding the deficiencies in Lopez's supplemental responses to the Phase II Written Discovery.

[1] See, Docket Item #93.

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Attorney Hayes requested that I set forth the deficiencies in a *meet and confer* letter to him.

14. As requested, on May 14, 2007, I sent a *meet and confer* letter via email and first class United States mail to attorney Hayes which enumerated each and every deficiency in Lopez's supplemental responses to the Phase II Written Discovery. A true and correct copy of that letter is attached hereto, marked Exhibit G.

15. After the close of business, at 7:10 P.M., on May 21, 2007 – the deadline for Lopez to supplement his supplemental responses to the Phase II Written Discovery – attorney Hayes emailed me a request for two additional days for Lopez to supplement his responses to the Phase II Written Discovery. The next morning, on May 22, 2007, I responded to attorney Hayes' email by indicating that I would grant the requested two-day extension of time, in exchange for a stipulation providing Petitioning Creditors with an equivalent two-business-day extension of time – from May 25, 2007 to May 30, 2007 – to file any necessary discovery motion. A true and correct copy of that email correspondence is attached hereto, marked Exhibit H.

16. On May 23, 2007, attorney Hayes sent me an email wherein he withdrew Lopez's request for an extension of time, and notified me that Lopez would not be providing any additional responses to the Phase II Written Discovery. A true and correct copy of that email correspondence is attached hereto, marked Exhibit I.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct, and that this Declaration was executed this 24th day of May, 2007, at San Diego, California.

/s/ L. Scott Keehn

L. Scott Keehn

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UNITED STATES BANKRUPTCY COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

In Re: FRANCIS J. LOPEZ, Alleged Debtor.	Case No. 05-05926-PBINV Involuntary Chapter 7 **DECLARATION OF L. SCOTT KEEHN RE: MOTION FOR AN ENFORCEMENT ORDER IMPOSING MONETARY SANCTIONS AGAINST THE DEBTOR** **[BIFURCATED PHASE II]** Date: November 19, 2007 Time: 2:00 p.m. Judge: The Honorable Peter W. Bowie Ctrm: 4

I, L. Scott Keehn, declare:

1. I am an attorney at law, duly licenced to practice before all courts of this State, and before the United States District Court for the Southern District of California. I am a shareholder of the firm Keehn & Associates APC, attorneys of record for Petitioning Creditors. I have personal knowledge of the factual matters stated herein.

2. The "Declaration of L. Scott Keehn in Support of Petitioning Creditors' Motion for an Enforcement Order: (1) Imposing Monetary Sanctions Against the Debtor; and (2) Imposing

Evidentiary Sanctions Against the Debtor" was filed herein by my office on May 24, 2007, and is incorporated herein by this reference.[1] In that Declaration, I summarized the delay and *bad faith* discovery tactics employed by Lopez during the 6-month period of December 3, 2006 through May 23, 2007.

3. On March 12, 2007, the Court ordered Lopez to provide supplemental discovery responses on or before April 11, 2007. The Court — in open session — indicated that it was deferring its ruling on the request for monetary sanctions of $4,442 because: (a) it wanted the risk of those sanctions to serve as a *Sword of Damocles* to encourage compliance with the Court's order; and (b) Lopez would have to "work his way out of those sanctions." Unfortunately, Lopez is apparently unimpressed with either this Court's order or the threat of sanctions.

4. On June 25, 2007, the Court conducted its hearing on Petitioning Creditors' request for monetary and evidentiary sanctions based on Lopez's dilatory tactics up to that time.[2] The Court deferred again the imposition of previously requested monetary sanctions ($4,442.00), but ordered the imposition of evidentiary sanctions precluding Lopez's use of any documents which he had not yet produced.[3]

5. On the courthouse steps following the June 25, 2007 hearing, I conferred with Lopez's attorney Jonathan Hayes regarding Petitioning Creditors' request to take Lopez's deposition. At that time, I stated that I would like to calendar the deposition before July 31, 2007 because I would be out of my office for virtually the entire month of August. Mr. Hayes and I agreed that either July 20 or July 27 would work on our calendars, and Mr. Hayes indicated that he would inquire as to Lopez's availability on those dates.

6. Three days later, on June 28, 2007, Mr. Hayes transmitted to me the following email message: *"I have spoken to my client about the deposition dates we discussed, July 20 or 27. He is checking his calendar. I will let you know **shortly**."* (Emphasis added.)

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[1] See Exhibit 1, Docket Item 105 (attachment #2).

[2] See Exhibit 2, Docket Item 110 [Transcript of the June 25, 2007 hearing ("6/25/07 Transcript")].

[3] See Exhibit 2, 6/25/07 Transcript at p. 17.

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7. Twenty-two days later — in the early evening of July 20, 2007 — Mr. Hayes transmitted an email suggesting, for the first time, July 31, 2007, as an available date for the deposition.

8. Given that July 31, 2007 would be my last day in the office before a 30-day vacation, I knew I would be fully consumed with matters necessary to be completed in preparation for that absence. Because of that, and because of the fact that I had received absolutely no communication from Mr. Hayes' office following the June 28, 2007 email, my office issued and mailed to Mr. Hayes a notice of Lopez's deposition for Tuesday, September 11, 2007, at 9:00 a.m. in our office.

9. On July 31, 2007, there was a further Status Conference in the case. I reported to the Court the events summarized in paragraphs 5-8 above, including the fact that we had noticed Mr. Lopez's deposition for September 11, 2007. Mr. Hayes stated in open court that he would communicate that information to Mr. Lopez, and let me know if there was any problem with that date. That was the last I heard from Mr. Hayes until September 10, 2007.

10. In the afternoon of September 10, 2007 — less than 24 hours before the deposition was scheduled to begin — Lopez's attorney sent me a brief email stating that Lopez was "*unable to make travel arrangements for the deposition tomorrow.*" The email suggested October 8, 2007 or October 22, 2007 as possible dates for the deposition. Lopez's deposition is currently scheduled for October 22, 2007 at 9:30 a.m. based on Mr. Hayes' representation that it was an acceptable date and time.

11. As stated in open court on June 25, 2007,[4] once Lopez's deposition is conducted, Petitioning Creditors intend to prepare and file their summary judgment motion to establish that Lopez was in fact not paying his debts as they came due as of the date of the involuntary petition.

12. Lopez's past misconduct in this case mirrors his extensive misconduct in other litigation involving Lopez and Petitioning Creditor Alan Stanly in other San Diego courts, as detailed in the Declaration of Timothy P. Dillon filed herein on September 27, 2007 and

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4 See Exhibit 2, 6/25/07 Transcript at p. 18.

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incorporated herein by this reference.[5] Considering Lopez's pervasive custom and practice of refusing to perform his duties as a litigant unless and until he is [forensically] bludgeoned into submission by the court, it appears clear that monetary sanctions should now be imposed. Without a significant sanctions order, I do not believe that Lopez will ever voluntarily appear for, and participate in good faith at, his deposition in this case.

13. My office spent a total of 13.6 hours preparing this second motion for sanctions to redress Lopez's discovery abuses. Specifically, attorney Leslie F. Keehn spent 12.6 hours working on this motion, at her standard hourly rate of $225.00. I worked 1.0 hour, at my standard hourly rate of $320.00. Petitioning Creditors will be billed a total of $3,155.00 for this motion.

14. I have reviewed the applicable time and billing records generated by my office. True and correct copies of those records are attached hereto as Exhibit 4,[6] and are summarized as follows: (a) $2,164.50 for 7.7 hours (attorney and paralegal time) spent preparing the necessary documents and questions for Lopez's deposition; (b) $224.00 for 0.7 hours of my time to confer with attorney Hayes regarding Lopez's last minute failure to appear; and (c) $6,590.00 for 25.7 hours of total attorney time (including my time and Leslie F. Keehn's time) reviewing the requisite evidence, and drafting the declarations in support of Petitioning Creditors' renewed motion for the monetary sanctions originally requested on May 24, 2007.

15. With this motion, Petitioning Creditors are seeking monetary sanctions in the total amount of **$12,133.50** to fully reimburse them for the fees they have actually incurred as described in Paragraphs 13 and 14 above.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct, and that this Declaration was executed this 19th day of October, 2007, at San Diego, California.

/s/ L. Scott Keehn
L. Scott Keehn

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[5] See Exhibit 3, Docket Item 111 (attachment #1).

[6] The non-applicable entries in the billing records contained in Exhibit 4 have been redacted.

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EXHIBIT 1

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UNITED STATES BANKRUPTCY COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

In Re: FRANCIS J. LOPEZ, Alleged Debtor.	Case No. 05-05926-PBINV Involuntary Chapter 7 **DECLARATION OF L. SCOTT KEEHN IN SUPPORT OF PETITIONING CREDITORS' MOTION FOR AN ENFORCEMENT ORDER: (1) IMPOSING MONETARY SANCTIONS AGAINST THE DEBTOR; AND (2) IMPOSING EVIDENTIARY SANCTIONS AGAINST THE DEBTOR** [BIFURCATED PHASE II] Date: June 25, 2007 Time: 10:30 a.m. Judge: The Honorable Peter W. Bowie Ctrm: 4

I, L. Scott Keehn, declare:

1. I am an attorney at law, duly licenced to practice before all courts of this State, and before the United States District Court for the Southern District of California. I am a shareholder of the firm Keehn & Associates APC, attorneys of record for Petitioning Creditors. I have personal knowledge of the factual matters stated herein.

2. On November 03, 2006, my office served Lopez with Petitioning Creditors' First Set of Written Discovery for Phase II (the "Phase II Written Discovery"), consisting of: (1) First

Phase II Requests for Admission Propounded by Petitioning Creditors [10 Requests]; (2) First Phase II Request for Production of Documents by Petitioning Creditors [162 categories of documents]; and (3) First Phase II Interrogatories Propounded by Petitioning Creditors [35 Interrogatories]. True and correct copies of the Phase II Written Discovery are attached hereto, marked Exhibits A, B and C respectively. Lopez's responses were due on December 4, 2006.

3. On December 03, 2006, Lopez served his "Response to Requests for Admission Propounded to Alleged Debtor Francis J. Lopez (Phase II)." **Lopez's responses were deficient, and Lopez failed to verify the responses.**

4. On December 05, 2006, Lopez served his "Response to Interrogatories Propounded to Alleged Debtor Francis J. Lopez (Phase II). **Lopez's responses were deficient, and Lopez failed to verify the responses.** At the same time, Lopez served his "Response to Requests for Production of Documents." **Lopez's responses were deficient.**

5. On December 13, 2006, I sent a *meet and confer* letter to Lopez's attorney, M. Jonathan Hayes, notifying him of the deficiencies in Lopez's responses to the Phase II Written Discovery.

6. On December 15, 2006, attorney Hayes and I participated in a telephonic *meet and confer* conference wherein the parties agreed that Lopez would provide supplemental responses to the Phase II Written Discovery on or before January 12, 2007.

7. On January 12, 2007 – the Deadline for Lopez to provide the promised supplemental responses to the Phase II Written Discovery – **Lopez failed, without explanation, to provide supplemental responses to the Phase II Written Discovery.**

8. On January 19, 2007, I sent a follow-up *meet and confer* letter to attorney Hayes requesting an explanation regarding Lopez's failure to provide the promised supplemental responses to discovery, and notifying Lopez of the imminent likelihood of a motion to compel his responses to the Phase II Written Discovery. **Lopez failed, without explanation, to respond to that *meet and confer* letter.**

9. On January 29, 2007, Petitioning Creditors filed a Motion to Compel responses to the Phase II Written Discovery. **Lopez failed, without explanation, to respond or file an**

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Opposition to that Motion.

10. On March 10, 2007 – a Saturday, just two days prior to the scheduled hearing on Petitioning Creditors' Motion to Compel Lopez's responses to the Phase II Written Discovery – attorney Hayes emailed me approximately 155 pages of documents, purportedly in response to the "First Phase II Request for Production of Documents by Petitioning Creditors." **This last-minute "*document dump*" was improper because the documents: (1) were not responsive to the Requests, (2) were not organized by category of Request, and (3) consisted of at least 103 pages of pleadings filed in the San Diego Superior Court which are already in the Petitioning Creditors' possession. Lopez failed, without explanation, to explain the deficiencies and/or his failure to provide the agreed-upon supplemental responses.**

11. On March 12, 2007, I appeared at the hearing during which this Court granted Petitioning Creditors' motion to compel Lopez to provide supplemental responses to the Phase II Written Discovery.[1] The Court ordered Lopez to provide the supplemental responses on or before April 11, 2007. The Court — in open session — indicated that it was deferring its ruling on the request for monetary sanctions of $4,242 because: (a) it wanted the risk of those sanctions to serve as a *Sword of Damocles* to encourage compliance with the Court's order; and (b) Lopez would have to "work his way out of those sanctions."

12. On April 10, 2007, Lopez mailed my office a set of supplemental responses to the Phase II Written Discovery which were patently deficient in that, i.e., they failed to fully respond to the Interrogatories asked, failed to provide facts in support of asserted denials to the Requests for Admissions, and failed to produce responsive documents. True and correct copies of Lopez's supplemental responses are attached hereto marked Exhibits D, E and F.

13. On May 11, 2007, the parties, through their counsel, attended a status conference wherein this Court ordered Lopez to file proper supplemental responses to the Phase II Written Discovery on or before May 21, 2007. Later that afternoon, I met with attorney Hayes at my office regarding the deficiencies in Lopez's supplemental responses to the Phase II Written Discovery.

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[1] See, Docket Item #93.

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Attorney Hayes requested that I set forth the deficiencies in a *meet and confer* letter to him.

14. As requested, on May 14, 2007, I sent a *meet and confer* letter via email and first class United States mail to attorney Hayes which enumerated each and every deficiency in Lopez's supplemental responses to the Phase II Written Discovery. A true and correct copy of that letter is attached hereto, marked Exhibit G.

15. After the close of business, at 7:10 P.M., on May 21, 2007 – the deadline for Lopez to supplement his supplemental responses to the Phase II Written Discovery – attorney Hayes emailed me a request for two additional days for Lopez to supplement his responses to the Phase II Written Discovery. The next morning, on May 22, 2007, I responded to attorney Hayes' email by indicating that I would grant the requested two-day extension of time, in exchange for a stipulation providing Petitioning Creditors with an equivalent two-business-day extension of time – from May 25, 2007 to May 30, 2007 – to file any necessary discovery motion. A true and correct copy of that email correspondence is attached hereto, marked Exhibit H.

16. On May 23, 2007, attorney Hayes sent me an email wherein he withdrew Lopez's request for an extension of time, and notified me that Lopez would not be providing any additional responses to the Phase II Written Discovery. A true and correct copy of that email correspondence is attached hereto, marked Exhibit I.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct, and that this Declaration was executed this 24th day of May, 2007, at San Diego, California.

/s/ L. Scott Keehn
L. Scott Keehn

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EXHIBIT 2

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA

CHIEF JUDGE PETER W. BOWIE, PRESIDING

FRANCIS J. LOPEZ	) CASE NO. 05-05926-PB

1) STATUS CONFERENCE ON INVOLUNTARY PETITION AND ANSWER

2) PETITIONING CREDITORS' MOTION FOR AN ENFORCEMENT ORDER: A) IMPOSING MONETARY SANCTIONS AGAINST THE DEBTOR; AND, B) IMPOSING EVIDENTIARY SANCTIONS AGAINST THE DEBTOR.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

SAN DIEGO, CALIFORNIA
MONDAY, JUNE 25, 2007

SAN DIEGO BANKRUPTCY REPORTERS
BY: LYNETTE ALVES
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APPEARANCES

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SAN DIEGO, CALIFORNIA, MONDAY, JUNE 25, 2007 , 10:00 A.M.

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THE CLERK: IN THE MATTER OF FRANCIS J. LOPEZ. TWO MATTERS: CONTINUED STATUS CONFERENCE ON INVOLUNTARY PETITION AND ANSWER; AND, PETITIONING CREDITORS' MOTION FOR AN ENFORCEMENT ORDER (1) IMPOSING MONETARY SANCTIONS AGAINST THE DEBTOR; AND, (2) IMPOSING EVIDENTIARY SANCTIONS AGAINST THE DEBTOR.

APPEARANCES, PLEASE.

MR. KEEHN: GOOD MORNING, YOUR HONOR.

SCOTT KEEHN APPEARING ON BEHALF OF THE PETITIONING CREDITORS.

MR. HAYES: GOOD MORNING, YOUR HONOR.

JOHN HAYES APPEARING FOR THE DEBTOR -- ALLEGED DEBTOR.

MR. KEEHN: YOUR HONOR, THIS PARTICULAR ODYSSEY BEGAN BEFORE THANKSGIVING, IF YOU CAN BELIEVE THAT, BACK ON NOVEMBER 3RD.

THE COURT: THAT'S NOTHING AT ALL COMPARED TO ADAMS.

MR. KEEHN: YOU KNOW, I WAS HOPING YOU WOULDN'T JUST CONFINE YOURSELF TO THIS RECORD. AND ALSO THE CASE BEFORE, THERE WERE THIRTEEN MEET AND CONFER LETTERS; AND WE DON'T MEET THAT RECORD, EITHER.

BUT THIS IS AN INVOLUNTARY PETITION. AND WE WERE HOPING TO MOVE IT ALONG WITH A LITTLE MORE ALACRITY THAN YOU MIGHT EXPECT IN --

THE COURT: SO YOU'RE SAYING IT REMAINS INVOLUNTARY?

MR. KEEHN: OH, VERY INVOLUNTARY.

WHAT WE HAVE HERE IN RESPONSE TO OUR REQUEST FOR DISCOVERY

THAT WERE PROMULGATED NOW SEVEN MONTHS AGO; AT FIRST THERE WAS NO RESPONSE AT ALL IN THE APPROPRIATE PERIOD. ALL OBJECTIONS WERE WAIVED. AND WHEN WE MOVED FOR MOTION TO COMPEL THE SANCTIONS. COUNSEL COMES IN AND APOLOGIZES FOR DEBTOR, BEMOANS THE FACT THAT WE'RE ASKING FOR A LOT OF INFORMATION; AND AGREES TO THE COURT'S RULING THAT SUPPLEMENTAL RESPONSES SHOULD BE PROVIDED NOT LATER THAN THE 21ST OF MAY.

WELL, ON THE 21ST OF MAY -- AND, ACTUALLY NOTHING HAPPENED BETWEEN THE TIME THE COURT MADE THAT -- GAVE THE DEBTOR THAT SECOND CHANCE. NOTHING HAPPENED BETWEEN THEN AND MAY 21ST UNTIL SHORTLY AFTER SEVEN IN THE EVENING WHEN MR. HAYES E-MAILED MY E-MAIL WITH A REQUEST FOR A DAY OR TWO EXTENSION.

WELL, I DIDN'T HAVE ANY PROBLEM WITH A DAY OR TWO EXTENSION, AS LONG AS I GET AN EQUAL EXTENSION AND TIME TO REPLY. AS SOON AS I SAW THE E-MAIL THE FOLLOWING MORNING, I RELAYED THAT INFORMATION TO MR. HAYES.

IN RESPONSE TO THAT, I RECEIVED ANOTHER E-MAIL THAT SAID, NO, WE'RE NOT GOING TO PROVIDE ANYTHING ELSE AND WE'RE WITHDRAWING OUR REQUEST FOR EXTENSION.

SO ONCE AGAIN, WE HAVE THE TIME PERIOD PASSING AND, OF COURSE, WE WERE PREJUDICED, NOT IN AN OVERWHELMING DEGREE, BUT NOTICEABLY BY THE FACT THAT IN RESPONSE TO THE FIRST E-MAIL WE HAD ANTICIPATED THAT WE WOULD NOT HAVE TO MEET THE ORIGINAL DEADLINE FOR RESPONSE.

SO, UPON RECEIVING THE WITHDRAWAL E-MAIL, WE QUICKLY

REGROUPED AND DID OUR REPLY -- DID OUR MOTION, RATHER. WE HAD ONLY A FEW DAYS TO DO THAT, GIVEN THE SETTING OF THIS PARTICULAR HEARING IN ORDER TO GIVE AN ADEQUATE TIME TO RESPOND. SO WE DID THAT.

AND WE HAVE WHAT HAS BECOME A FAMILIAR PATTERN. WE HAVE, WHAT PURPORTS TO BE RESPONSES GIVEN ON BEHALF OF MR. LOPEZ; AND, IN FACT, THEY'RE NOT REALLY GOOD-FAITH RESPONSES AT ALL. THEY PROVIDE SOME PAPER, MOST OF WHICH WAS PLEADINGS IN CASES THAT MR. LOPEZ HAD EVERY REASON TO KNOW THAT WE ALREADY HAD AND SO WOULD BE COMPLETELY USELESS.

NOW, THIS PARTICULAR DISCOVERY DISPUTE CREATES A DYNAMIC THAT'S DIFFERENT FROM MOST DISCOVERY DISPUTES, BECAUSE MOST DISCOVERY DISPUTES ARISE IN TRADITIONAL LITIGATION. AND TRADITIONAL LITIGATION IS ALWAYS LOOKING BACK AT AN EVENT AND IS STATIC, IN TERMS OF WHERE THE LIABILITIES WILL FALL. BECAUSE THEY DEPEND ON WHAT HAPPENED BACK WHEN WHATEVER INCIDENT OCCURRED, WHATEVER COURSE OF CONDUCT OCCURRED THAT GAVE RISE TO THE TRADITIONAL LITIGATION. SO YOU'RE ALWAYS LOOKING BACKWARDS AND YOU'RE NOT REALLY CONCERNED ABOUT WHAT'S HAPPENING ON A GOING-FORWARD BASIS.

THE DIFFERENT DYNAMIC THAT'S CREATED IN EVERY INVOLUNTARY PETITION IS THE INVOLUNTARY GAP DYNAMIC. BECAUSE, WHILE DELAY IS ALWAYS PREJUDICIAL TO BRINGING A MATTER TO ITS QUICK AND COST EFFECTIVE CONCLUSION, IT HAS AN AUXILIARY PREJUDICE IN INVOLUNTARY CASES BECAUSE THE DEBTOR IS FREE TO CREATE OBLIGATIONS THAT WILL BECOME INVOLUNTARY GAP

CLAIMS AND LEAPFROG AHEAD IN PRIORITY TO THE CLAIMS OF THE CREDITORS THAT BROUGHT THE ACTION.

AND THAT PARTICULAR FORM OF PREJUDICE IS RENDERED ALL THE MORE DISTURBING BECAUSE THERE'S NO WAY TO MONITOR IT, NO WAY TO QUANTIFY IT. MR. LOPEZ IS OUT THERE. MAYBE HE'S NOT CREATING INVOLUNTARY GAP CLAIMS AND PERHAPS HE IS. BUT THE RISK IS THAT THE UTILITY OF THE REMEDY OF INVOLUNTARY BANKRUPTCY AS A CREDITOR'S REMEDY IS SUBJECT TO THIS FORM OF DILUTION, SIMPLY BECAUSE THE ALLEGED DEBTOR REFUSES -- I WANT TO UNDERSCORE THAT -- REFUSES TO COMPLY WITH THE DISCOVERY IN GOOD FAITH.

WE ARE TRYING TO NARROW THE ISSUES WITH THE EVIDENCE THAT'S AVAILABLE SO THAT WE CAN PROCEED IN THE SECOND PHASE, AS WE DID IN THE FIRST, TO PRESENT THE ISSUES TO THE COURT IN A SUMMARY JUDGMENT FASHION, BECAUSE WE THINK THIS CASE IS AMENABLE TO SUMMARY JUDGMENT.

AND MR. LOPEZ IS JUST VERY ADROITLY BLOCKING THAT WITH THIS PASSIVE/AGGRESSIVE TACTIC OF HIS, WHERE HE DOESN'T REPLY AT ALL UNTIL HIS BACK IS ABSOLUTELY TO THE WALL AND SOME DRACONIAN CONSEQUENCE MIGHT BEFALL HIM. AND THEN HE'LL RESPOND, BUT HE WON'T REALLY RESPOND IN GOOD FAITH. HE GIVES YOU A PARITY OF GOOD-FAITH, THAT DOES NOT ADVANCE THE PURPOSES OF DISCOVERY.

NOW, WE SHOULDN'T HAVE TO WAIT UNTIL HIS BACK IS AGAINST THE WALL TO GET OUR RESPONSES. WE'RE ENTITLED TO OUR RESPONSES THIRTY DAYS AFTER THEY'RE SERVED, THIRTY-THREE WHEN THEY'RE SERVED BY MAIL.

AND WE'RE LONG PAST THAT WITH THESE DISCOVERY REQUESTS THAT WERE PROMULGATED BACK IN NOVEMBER. AND AS THE OBJECTION DISCLOSES, THE ALLEGED DEBTOR IS WELL AWARE THAT WE'RE DOING, ONCE AGAIN, WHAT WE DID IN THE FIRST PHASE; WE'RE USING THE WRITTEN DISCOVERY AS, TO SORT OF TEE UP THE ISSUES FOR OUR, DEPOSITION EXAMINATION, WHICH IS THE NORMAL WAY TO PROCEED.

SO BY HINDERING AND DELAYING THE DISCOVERY PROCESS IN THE WRITTEN PHASE, HE NATURALLY DEFERS THE ORAL EXAMINATION, WHICH IN TURN DEFERS, ONCE AGAIN, THE DAY OF RECKONING. AND ALL THE WHILE HE'S FREE TO BE OUT THERE INCURRING FURTHER GAP CLAIMS.

SO I THINK THAT WHAT WE'VE SUGGESTED IN OUR PAPERS IS THE APPROPRIATE RESPONSE. NUMBER ONE, THE DEFERRED MONETARY SANCTIONS THAT THE COURT ORIGINALLY AWARDED OF $42 000 -- EXCUSE ME, I'M DREAMING -- $4,242. SHOULD BE IMPOSED.

THE -- I DON'T THINK THAT THE RESULT THE COURT HAD HOPED TO ACHIEVE BY DEFERRING IT HAS BEEN ACHIEVED. I DON'T THINK IT EVER WILL BE ACHIEVED. I THINK THAT THIS IS JUST MR. LOPEZ'S LITIGATION TACTIC; HALT, HINDER AND DELAY AND MAYBE I'LL HAVE TO ANSWER SOMEDAY.

THE EVIDENTIARY SANCTIONS THAT WE'VE REQUESTED, I THINK, ARE APPROPRIATE. AND THEY WILL FACILITATE THE PURPOSE OF DISCOVERY, BECAUSE THEY NARROW THE ISSUES FOR US, EVEN WITHOUT THE COOPERATION OF THE ALLEGED DEBTOR.

SO WE WOULD REQUEST THAT THE EVIDENTIARY SANCTIONS BE

IMPOSED AS REQUESTED, AND THAT THE MONETARY SANCTION BE AWARDED FORTHWITH, WITH A DATE CERTAIN ESTABLISHED AS TO WHEN THAT SECTION SHOULD BE PAID.

THE COURT: MR. HAYES.

MR. HAYES: YOUR HONOR, THANK YOU. I HAVE A COUPLE OF COMMENTS.

THE FIRST ONE IS, I WANTED TO COMMENT ON THIS, THE REQUEST I'VE MADE OF MR. KEEHN FOR ANOTHER ONE OR TWO DAYS. I'VE HAD -- MR. LOPEZ LIVES IN FLORIDA, AND I HAVE A HARD TIME COMMUNICATING WITH HIM. WE COMMUNICATE BY E-MAIL AND I HAVE HIS CELL PHONE, AND INEVITABLY, I CATCH HIM WHEN HE'S PICKING HIS KIDS UP OR HE'S IN A STORE OR SOMETHING AND THERE'S THE THREE-HOUR TIME GAP.

ANYWAY, I SPOKE TO HIM VERY BRIEFLY A COUPLE OF TIMES. I SAID, LOOK, WE HAVE TO GET THEM MORE DOCUMENTS.

THERE'S -- MR. KEEHN SENT ME THIS LETTER, WHAT ARE WE GOING TO DO? WE DISCUSSED IT REAL QUICKLY. AND FINALLY, THE TIME CAME WHERE HE ABSOLUTELY HAD TO FILE A RESPONSE, AND THAT'S WHEN I SENT THE E-MAIL TO MR. KEEHN SAYING, GIVE ME ANOTHER DAY OR TWO.

THE FOLLOWING DAY I SPOKE TO MR. LOPEZ AT GREAT LENGTHS. AND WE WENT THROUGH THE LETTER ONE BY ONE. AND I MEAN, THERE ISN'T ANYTHING ELSE WE CAN COME UP WITH. THERE ISN'T ANY OTHER DOCUMENTS EXCEPT THIS ISSUE WITH THE WIFE. THERE ISN'T ANY DOCUMENTS THAT HAVEN'T BEEN TURNED OVER. THERE ISN'T ANY, ANY MORE EXPLANATION OR, OR, MORE DETAILS THAT WE COULD GIVE, OTHER THAN REALLY REPEAT INFORMATION

THAT'S ON VARIOUS -- OF THE MANY STATEMENTS THAT HAVE BEEN TURNED OVER I BELIEVE MANY TIMES BY NOW.

BUT, ADDRESSING THE MOTION, THE MOTION HAS TWO PARTS. ONE IS GRANT THESE SANCTIONS, WHICH I, FRANKLY, BELIEVE HAS ALWAYS BEEN THE GOAL. AND THE SECOND IS THESE EVIDENTIARY SANCTIONS.

AS FAR AS THE SANCTIONS, THE $4000. I JUST WANT TO SAY AGAIN, I JUST DON'T THINK THERE'S ANY OTHER DOCUMENTS THAT CAN BE TURNED OVER OTHER THAN MRS. LOPEZ'S DOCUMENTS, THERE ARE NO OTHER DOCUMENTS THAT CAN BE TURNED OVER THAT HAVEN'T ALREADY BEEN TURNED OVER.

I BROUGHT MR. LOPEZ'S FIRST DEPOSITION. IT'S 240-SOMETHING PAGES. THIS IS WELL MORE THAN A YEAR AGO. THE REST OF THESE PAPERS ARE EXHIBITS. EVERY STATEMENT OF EVERY ONE OF HIS BILLS OF THE TWENTY OR SO CREDITORS ARE ALL CONSUMER DEBTS. THIS IS WELL MORE THAN A YEAR OLD. MR. KEEHN HAS SENT OUT SEVERAL SUBPOENAS. I'M ACTUALLY NOT SURE WHAT HE'S GOTTEN FROM THOSE. WE PROVIDED MORE DOCUMENTS TWICE IN THIS GO AROUND. IF MR. KEEHN REALLY WANTED TO GET MOVING WITH THIS, JUST TAKE THE DEPOSITION AGAIN. HE'S BEEN TELLING ME HE'S GOING TO TAKE THIS DEPOSITION. HE SOMEHOW CAN'T BECAUSE HE REALLY -- THERE'S SOME MAGICAL PIECE OF PAPER THAT I'M NOT CLEAR ABOUT THAT HE HASN'T GOTTEN YET; AND THEREFORE, HE CAN'T GO FORWARD. THAT'S JUST RIDICULOUS.

WITH RESPECT TO THE DOCUMENTS IN MRS. LOPEZ'S POSSESSION, I'VE ACTUALLY NEVER MET MRS. LOPEZ. BUT I MEAN, MY WIFE

HAS A CHECKING ACCOUNT AND SHE CARRIES THE CHECKBOOK AROUND IN HER PURSE. AND I'D BE LOOKING FOR A DIVORCE ATTORNEY IF I WENT INTO HER PURSE AND FOUND HER CHECKBOOK AND STARTED SENDING OFF INFORMATION SOMEBODY HAPPENED TO BE SUING ME.

THE COURT: SO YOU'RE CONTENDING THIS IS ALL SEPARATE PROPERTY, AND HE HAS NO INTEREST WHATSOEVER IN THE FUNDS THAT SHE ADMINISTERS OR THE DEBT SHE'S INCURRED WHETHER IT'S A LEHMAN BROTHERS, OR THE MORTGAGE ON THE HOUSE OR ANY OF THOSE KINDS OF THINGS?

MR. HAYES: I DON'T KNOW IF I'D GET INTO WHETHER IT'S COMMUNITY PROPERTY OR NOT. BUT IF THEY WANT, I MEAN, THEY CAN GO AFTER HER. THEY CAN SUBPOENA HER OR THEY CAN COME IN WITH SOME SORT OF EVIDENCE OF WHY THEY HAVE THE RIGHT TO MAKE MR. LOPEZ --

THE COURT: SO WHAT'S YOUR THEORY, WHAT'S YOUR THEORY ON WHY SHE DOESN'T HAVE TO PROVIDE AN ANSWER WITH RESPECT TO WHAT SHE HAS OR HOLDS OR PAYS, PARTICULARLY, IF HE'S GOT SOME OBLIGATION OR LIABILITY ON IT?

MR. HAYES. THEY HAVEN'T ASKED HER. THEY'RE ASKING HIM.

THE COURT: NO. THAT'S NOT MY QUESTION. MY QUESTION IS, WHAT'S YOUR THEORY FOR WHY HE DOESN'T HAVE TO ANSWER THAT QUESTION?

MR. HAYES: THAT'S HER RIGHT TO PRIVACY.

THE COURT: SO IT'S HER RIGHT TO PRIVACY, BECAUSE IT'S SOME SEPARATE INTEREST OF HERS OR WHAT?

WHERE DOES SHE HAVE A RIGHT TO PRIVACY ON SOMETHING THAT

YOU SAY YOU DON'T GET TO THE COMMUNITY PROPERTY QUESTION. I MEAN, HE'S GOT A COMMUNITY PROPERTY INTEREST IN IT, IF HE'S GOT A STATE STATUTORY RIGHT TO CO-MANAGEMENT OF COMMUNITY ASSETS OR ANYTHING ELSE THAT I HAVE NO IDEA WHAT FLORIDA LAW PROVIDES.

I'M ASKING YOU WHAT YOUR THEORY IS FOR WHY HE DOESN'T HAVE TO ANSWER IT?

MR. HAYES: WELL, FOR ONE THING, FLORIDA IS NOT COMMUNITY PROPERTY. AND I DON'T KNOW HOW FLORIDA LAW IS. BUT WHAT I FOCUSED ON IS MR. LOPEZ, GO TO YOUR WIFE AND GET THESE DOCUMENTS.

THE COURT: NO, POSSESSION -- YOU KNOW, WHAT DOES HE HAVE IN HIS POSSESSION OR CONTROL? WHAT DOES HE HAVE? HAS HE PRODUCED EVERYTHING THAT'S IN HIS POSSESSION OR CONTROL WITH RESPECT TO THAT?

MR. HAYES: OH, ABSOLUTELY. BUT THAT'S --

THE COURT: AND THAT'S INCLUDING AS TO HIS LIABILITY WITH RESPECT TO IT?

MR. HAYES: YES. AS FAR AS I KNOW. BUT THAT DOES RAISE THE QUESTION OF DOES -- IS WHAT'S IN HIS WIFE'S PURSE IN HIS POSSESSION OR CONTROL? I MEAN, THAT'S WHAT HE'S TELLING ME. I CAN'T --

THE COURT: NO. YOUR ANSWER IS, HE HAS NO INTEREST OR OBLIGATION IN THE LEHMAN BROTHERS OR THE MORTGAGE OR WHATEVER IT IS, THEN WHY DON'T YOU AGREE TO THOSE EVIDENTIARY SANCTIONS AS WELL? YOU SAY HE'S TURNED OVER EVERYTHING.

MR. HAYES: WELL, EVERYTHING THAT'S IN HIS POSSESSION OR HIS CONTROL WITHOUT GETTING DIVORCED; YES.

THE COURT: THEN THE ANSWER, IT SEEMS TO ME, IS THAT YOU AGREE TO THE EVIDENTIARY SANCTIONS, SAID THAT HE CANNOT PRODUCE ANYTHING HE HAS NOT ALREADY PRODUCED, COME TIME OF TRIAL WITH RESPECT TO THE ISSUE THAT WE'LL BE LITIGATING IN THIS PHASE 2 OF THIS ISSUE.

MR. HAYES: I MIGHT DO THAT. I HADN'T THOUGHT OF IT, MYSELF.

I WAS FOCUSING ON THE MOTION, WHICH BASICALLY ASKED YOU TO GRANT SUMMARY JUDGMENT TODAY. BUT I WOULD AGREE WITH THE THEORY THAT THINGS -- HE SHOULDN'T BE ABLE TO COME IN WITH SOMETHING AFTER THIS, OR HE SHOULDN'T BE ABLE TO, "QUOTE," "UNQUOTE," FIND SOMETHING, YOU KNOW, TWO DAYS BEFORE TRIAL.

AND I DO BELIEVE EVERYTHING'S BEEN TURNED OVER.

THE COURT: WELL, THAT'S WHAT MR. KEEHN IS -- I HAVE NO IDEA WHAT HIS STRATEGY IS, BUT THAT'S AT LEAST WHAT HE'S ASKING FOR IN THE CONTEXT OF THIS MOTION, BECAUSE HE WANTS TO BE ABLE TO CLOSE THE BOOK AND THEN GO TAKE YOUR CLIENT'S DEPO KNOWING THAT YOUR CLIENT IS NOW PRECLUDED FROM STEPPING UP AND SAYING OH, BUT HERE'S THIS, AND HERE'S THIS AND HERE'S THAT; AND NOT EVER HAVING HAD A CHANCE TO LOOK AT IT OR INDEPENDENTLY VALIDATE IT FROM THIRD PARTIES OR ANY OF THOSE KINDS OF THINGS.

YOU WOULDN'T WALK INTO A DEPO BLIND THAT WAY. I'M CONFIDENT OF THAT.

MR. HAYES: NO. YOU KNOW, WHAT I WAS FOCUSING ON IS THE MOTION SAYS ELIMINATE ALL EVIDENCE ENTIRELY REGARDING EACH ONE OF THESE CATEGORIES; NOT JUST ELIMINATE -- NOT JUST HAVE AN EVIDENTIARY SANCTION THAT WE CAN'T FIND, "QUOTE," "UNQUOTE," FIND MORE DOCUMENTS.

I THINK I WOULD AGREE TO THAT. WHATEVER DOCUMENTS HAVEN'T BEEN TURNED OVER UP TO NOW, I WOULD AGREE TO THAT.

THE COURT: OKAY.

MR. HAYES: I'M NOT SURE I -- YOU KNOW, HE JUST FOUND A JOB AND HE DOESN'T HAVE $4,400. AND I DON'T KNOW WHAT ELSE I CAN SAY.

YOU SAID, YOU'RE NOT SURE WHAT MR. KEEHN'S STRATEGY IS. I MEAN, IF THEY REALLY WANTED THIS CASE TO BE FINISHED, THEY WOULD HAVE TAKEN HIS DEPOSITION SIX OR EIGHT MONTHS AGO.

THE COURT: I WOULDN'T HAVE. I WAS A LITIGATOR FOR A BUNCH OF YEARS. I'M NOT WALKING INTO A DEPOSITION WHEN THERE'S A WHOLE BUNCH OF DOCUMENTS OUT THERE AND HAVE THEM SURPRISE ME.

MR. HAYES: WELL, I DON'T THINK THERE ARE.

THE COURT: WELL --

MR. HAYES: FOR MONTHS THERE HAVEN'T BEEN A WHOLE BUNCH OF DOCUMENTS OUT THERE, BUT ALL RIGHT, I HAVE NOTHING FURTHER.

THE COURT: OKAY. MR. KEEHN.

MR. KEEHN: YES. THANK YOU, YOUR HONOR.

IN ADDITION TO THE REASONS THAT YOU'VE ALLUDED TO AS TO

WHY YOU WOULDN'T TAKE THE DEPOSITION WITHOUT THE DOCUMENTS, THERE WERE RESPONSES THAT MR. LOPEZ GAVE IN HIS ORIGINAL DEPOSITION A YEAR AGO, NOW, THAT TO THE EFFECT THAT, WELL THERE ARE MORE DOCUMENTS. I JUST HAVE TO LOOK AT THEM. AND OBVIOUSLY THAT'S A DOOR WE NEED TO CLOSE. IF WE GET THE EVIDENTIARY SANCTIONS, AS MR. HAYES SUGGESTED, WE'VE CLOSED THE DOOR.

AND I, IN TERMS OF THE -- IF HE'S AGREEING TO THE SANCTIONS THEN I DON'T NEED TO ADDRESS HOW HELLACIOUS THIS ARGUMENT OF MARITAL STRESS IS CONCERNED. I DID HAVE SOME DOCUMENTS THAT WERE RECENTLY FILED IN THE DISTRICT COURT THAT BLOW THAT OUT OF THE WATER. BUT IF HE'S AGREEING TO IT, I WON'T ADDRESS IT.

AS FAR AS THE MONETARY SANCTION IS CONCERNED, YOUR HONOR, THIS -- WE TRIED TO CLOSE THE DOOR IN A PROCESS THAT BEGAN SEVEN MONTHS AGO. I SHOULDN'T BE HERE SEVEN MONTHS LATER CLOSING IT ON A CAPITULATION TO A SECOND MOTION TO COMPEL THAT I SHOULDN'T HAVE HAD TO FILE.

IF THERE REALLY ARE NO DOCUMENTS, THEN WHY IS THE RESPONSE, WELL, THERE'S MORE THINGS I NEED TO CHECK AND I CAN'T BE SURE. IF THERE REALLY ARE NO DOCUMENTS, THEN WHY WAS THAT ANSWER NOT GIVEN BACK IN MAY? WHY WAS IT NOT GIVEN BACK IN DECEMBER WHEN IT WOULD HAVE BEEN TIMELY? THERE'S NO EXPLANATION FOR THAT.

THIS IS EXACTLY THE KIND OF GAMESMANSHIP THAT RULE ONE OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE ABHORS. THE PURPOSE OF THE RULES, THEMSELVES, IS TO PROVIDE A

MECHANISM AND A FRAMEWORK FOR THE RAPID AND FAIR RESOLUTION OF ISSUES.

NOW, ONE COMMENT, SORT OF, AT LEAST I INFERRED THE ARGUMENT FROM THE FACT THAT WE HAVE TWO TO THREE INCHES OF PAPER FROM THE ORIGINAL DEPOSITION. AND WHY ARE WE STILL HERE A YEAR LATER?

IN ADDITION TO NOT HAVING THE DOCUMENTS PRODUCED, WE ALSO HAVE THE POINT THAT THIS CASE WAS BIFURCATED AT MR. LOPEZ'S REQUEST. THERE WERE MANY QUESTIONS THAT I COULD EASILY HAVE ASKED THE FIRST GO AROUND THAT MIGHT HAVE OBVIATED THE NEED FOR FURTHER DEPOSITION, OR AT LEAST REDUCED IT. I COULDN'T BECAUSE OF THE CONSTRAINTS PLACED BY THE BIFURCATION ORDER. AND I TRIED TO ADHERE TO THAT ORDER. SO I HAVE TO TAKE HIS DEPOSITION YET A SECOND TIME.

AND THEN ONE OF THE LAST REMARKS THAT COUNSEL MADE, I THINK, UNDERSCORES THE NEED FOR THE SANCTIONS HAVING BEEN IMPOSED BECAUSE IT HIGHLIGHTS THE GAMESMAN-LIKE APPROACH THAT MR. LOPEZ HAS TAKEN. AND THAT, THAT COMMENT WAS, HE JUST GOT A JOB.

WELL, IF BY THAT HE'S REPRESENTING TO THE COURT THAT UP UNTIL THIS TIME HE'S BEEN UNEMPLOYED, I THINK THAT EXACERBATES THE CULPABILITY OF MR. LOPEZ IN NOT TIMELY RESPONDING. WHAT ELSE WAS HE DOING? WAS HE REALLY SPENDING FORTY HOURS A WEEK LOOKING FOR A JOB?

IF HE WAS UNEMPLOYED, CERTAINLY HE WOULD HAVE HAD MORE TIME AVAILABLE TO TEND TO HIS DUTIES AS A LITIGANT THAN A FULLY-EMPLOYED INDIVIDUAL WOULD. AND EVEN A

FULLY-EMPLOYED INDIVIDUAL IS EXPECTED TO RESPOND AND RESPOND TIMELY TO DISCOVERY OBLIGATIONS.

AS I SAID IN THE BEGINNING, WE DON'T KNOW TODAY, AND WE WON'T KNOW UNTIL THAT ORDER FOR RELIEF IS ENTERED AND SCHEDULES ARE FILED, IF THAT EVER HAPPENS. HOW MUCH THIS ESTATE AND THE GENERAL UNSECURED CREDITORS THAT BROUGHT THIS POSITION HAVE BEEN PREJUDICED BY THIS DELAY AND THE INCURRING OF GAP CLAIMS?

I THINK THAT MESSAGE THE COURT SENT THE FIRST TIME TO MR. LOPEZ WAS, I'LL GIVE YOU ANOTHER CHANCE. I THINK THE MESSAGE THAT THE COURT NEEDS TO SEND TO MR. LOPEZ NOW IS, THIS ISN'T A GAME. AND THERE AREN'T ANY MORE CHANCES. AND YOU DIDN'T PLAY BY THE RULES, AND SO THE SHIELD THAT I PUT IN FRONT OF YOU BEFORE, IS NOW DOWN. AND THESE SANCTIONS ARE DUE AND PAYABLE.

THE COURT: WELL, IN MY VIEW, AT LEAST AT THIS POINT IN TIME AND ON THE PRESENT STATE OF THE RECORD, THE EVIDENTIARY SANCTIONS ARE WARRANTED, AND WILL BE ORDERED IN THE FOLLOWING RESPECTS:

WITH RESPECT TO DEBTOR'S RESPONSE TO REQUEST FOR ADMISSION NUMBER FIVE, THAT WILL BE, AND THE DEBTOR HAS AGREED, THAT WILL BE AN UNQUALIFIED ADMISSION;

DEBTOR WILL BE PROHIBITED FROM PROVIDING EVIDENCE OF PAYMENTS FROM NOVION BETWEEN JANUARY 1 OF 2005 TO JULY 1 OF 2005;

DEBTOR WILL BE PROHIBITED FROM PROVIDING EVIDENCE OF PAYMENTS OF CASH RECEIVED FROM JANUARY 1, 2005 TO JULY 1, 2005;

DEBTOR WILL BE PROHIBITED FROM PROVIDING EVIDENCE OF PAYMENTS OF CASH RECEIVED BY HIS WIFE BETWEEN JANUARY 1, 2005 AND JULY 1 OF 2005. AND I WILL ADD, AS TO THESE PROHIBITIONS, THAT'S TO THE EXTENT NOT ALREADY DISCLOSED TO THE MOVING CREDITORS, THE PETITIONING CREDITORS. IF IT'S BEEN DISCLOSED, THEN IT'S THERE. THERE'S NO PRECLUSION OF USE OF THAT INFORMATION IF IT'S BEEN PREVIOUSLY PROVIDED TO THE PETITIONING CREDITORS, IN THE CONTEXT OF THE DISCOVERY OF THIS CASE;

THE DEBTOR WILL BE PROHIBITED FROM PROVIDING ANY EVIDENCE OF A DEBT IN FAVOR OF LEHMAN BROTHERS OR ANY PAYMENT TO LEHMAN BROTHERS AS OF THE PETITION DATE EXCEPT TO THE EXTENT AND SAME PROVISO, EXCEPT TO THE EXTENT ALREADY DISCLOSED TO THE COUNSEL FOR PETITIONING CREDITORS;

AND, DEBTOR WILL BE PROHIBITED FROM PROVIDING EVIDENCE OF DEBT IN FAVOR OF AMERICAN EXPRESS, BANK OF AMERICA, BANK CARD, CINGULAR, CITI CARD, HOUSEHOLD BANK, NORTHWEST FLORIDA DAILY NEWS, CITIBANK QUICKEN, TEXACO, VERIZON, UNION BANK, OR MR. GORRILL OR ANY PAYMENT TO ANY OF THEM AS OF THE PETITION DATE, EXCEPT TO THE EXTENT ALREADY PROVIDED THE COUNSEL FOR PETITIONING CREDITORS IN THE CONTEXT OF THE DISCOVERY IN THIS MATTER.

AS TO THE MONETARY SANCTIONS, I AM, AGAIN, GOING TO DEFER AWARDING THOSE. BUT THEY REMAIN THE SORT OF DAMOCLES OVER MR. LOPEZ. BECAUSE I DON'T KNOW THE ANSWER TO SOME OF MR. KEEHN'S SPECULATION AS TO WHAT'S GOING ON. MR. KEEHN

IS CONVINCED THAT THIS IS A GAME THAT MR. LOPEZ IS PLAYING. I'M NOT YET CONVINCED OF THAT.

SO EVENTUALLY WE WILL GET TO THE ANSWER ONE WAY OR THE OTHER. AND ONCE I KNOW THE ANSWER, I'LL APPLY THEM, IF I DEEM THAT'S APPROPRIATE AT THE TIME. BUT THE EVIDENTIARY SANCTIONS AT THIS POINT IN TIME ARE WARRANTED. I'LL SIGN AN ORDER TO THAT EFFECT.

MR. KEEHN: THANK YOU, YOUR HONOR.

THE COURT: OKAY. NOW, WE HAVE A STATUS CONFERENCE. TIMING.

ARE YOU, NOW, LOOKING AT THE DEPOSITION, MR. KEEHN?

MR. KEEHN: I AM. AND CONSISTENT WITH THE LOCAL RULES, I NEED TO CONFER WITH COUNSEL AS TO AVAILABLE DATES.

MR. HAYES: I HAVE TO BE BACK HERE JULY 31ST. THAT'S A LITTLE QUICK, BUT I'M GOING TO BE HERE ANYWAY.

THE COURT: JULY 31ST? THAT'S A TUESDAY.

MR. KEEHN: YES.

THE COURT: WHAT TIME IS YOUR HEARING ON THE 31ST?

MR. HAYES: AT 10:00. IT'S A SUMMARY JUDGMENT MOTION, SO IT COULD BE IN THE AFTERNOON; SUMMARY JUDGMENT MOTION THAT HASN'T BEEN FILED.

THE COURT: WE COULD DO 2:00 P.M. ON THE 31ST. DOES THAT WORK?

MR.KEEHN: IT'S CLEAR ON MY CALENDAR, YOUR HONOR.

MR. HAYES: 2:00?

THE COURT: OKAY. AND WE'LL DO THAT AS A FURTHER STATUS CONFERENCE. BUT IN THE MEANTIME, I ASSUME THE TWO

OF YOU WILL MEET AND CONFER ON A DEPOSITION DATE. AND THEN ONCE THE DEPOSITION IS CONCLUDED, I ASSUME MR. KEEHN, YOU'RE PLANNING A MOTION?

MR. KEEHN: I AM.

THE COURT: JUST SO MR. HAYES SEES WHAT'S COMING AND THEN WE'LL -- ONCE THAT MOTION'S DECIDED, WE'LL KNOW WHERE WE GO NEXT, IF ANYWHERE.

MR. HAYES: GREAT.

MR. KEEHN: THANK YOU, YOUR HONOR.

MR. HAYES: THANK YOU, YOUR HONOR.

THE COURT: ALL RIGHT. WE'LL BE IN RECESS.

STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

I, LYNETTE ALVES, OFFICIAL REPORTER, DO HEREBY CERTIFY:

THAT I REPORTED IN SHORTHAND THE PROCEEDINGS HELD IN THE FOREGOING CAUSE ON THE 25TH DAY OF JUNE, 2007; THAT MY NOTES WERE LATER TRANSCRIBED INTO TYPEWRITING UNDER MY DIRECTION; AND, THAT THE FOREGOING TRANSCRIPT CONTAINS A CORRECT STATEMENT OF THE PROCEEDINGS.

DATED THIS ___________ DAY OF _______________, 2007.

____

LYNETTE ALVES, CSR #12534, RPR #61256

EXHIBIT 3

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Leslie F. Keehn, SBN 199153
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UNITED STATES BANKRUPTCY COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

In Re: FRANCIS J. LOPEZ, Alleged Debtor.	Case No. 05-05926-PBINV **DECLARATION OF TIMOTHY P. DILLON [BIFURCATED PHASE II]** Date: October 1, 2007 (Status Conference) Time: 10:30 a.m. Judge: The Honorable Peter W. Bowie Ctrm: 4

I, TIMOTHY P. DILLON, declare as follows:

1. I am an attorney duly admitted to practice before the Courts of this State. I am a shareholder of the law firm of Dillon & Gerardi, APC, counsel for Petitioning Creditor Alan Stanly ("Stanly") in certain cases involving the alleged debtor herein, Francis J. Lopez ("Lopez"), which were and/or are pending before the San Diego Superior Court and the United States District Court for the Southern District of California (the "Additional Lopez Cases"). In connection with the Additional Lopez Cases, I am the *shareholder in charge* of the engagement of the firm on behalf of Stanly, and the attorney within the firm who is most knowledgeable with respect to all aspects of the Additional Lopez Cases. I make this Declaration based upon facts within my

firsthand knowledge acquired in the course of conducting litigation against Lopez in the Additional Lopez Cases.

2. The delay and bad-faith litigation tactics employed by Lopez and his counsel throughout the Additional Lopez Cases are summarized below.

Union Bank of California v. Francis J. Lopez, et. al.
San Diego Superior Court(Case No.: GIN 030827)

Case Summary (06/2003 - 09/2004):

3. In or about June of 2003, Union Bank of California initiated a litigation against both Lopez and Stanly as guarantors of a loan which their corporation, Prism, had defaulted on. Both Lopez and Stanly filed cross-claims against each other for contribution and indemnity. Lopez and Stanly eventually settled with Union Bank. Stanly prevailed on a motion for good faith settlement and obtained a dismissal of Lopez's cross-claims. At time of trial, the sole issues left in the case were Stanly's claims against Lopez for indemnity and contribution. Trial in the Union Bank matter was continued several times due to Lopez's dilatory conduct, as more fully set forth below. When the Court finally held trial, neither Lopez nor his counsel appeared. Trial proceeded without Lopez.

Summary of Dilatory / Bad Faith Tactics:

4. On March 9, 2004, Lopez requested a trial continuance due to the "illness of his wife's aunt." Based on that request, the parties ultimately stipulated to continue the trial for four months — until July 9, 2004.

5. On July 2, 2004 — the date of the trial readiness conference — Lopez's attorney, Joseph Fischbach ("Fischbach"), faxed a "Declaration re: Non-Readiness for Trial" to my office. A true and correct copy of that Declaration is attached hereto as Exhibit 1 to the "Compendium of Exhibits in Support of Renewed Request for an Enforcement Order Imposing Monetary Sanctions Against Alleged Debtor Francis J. Lopez" (hereinafter referred to as the "Exhibits Compendium") filed concurrently herewith. In his Declaration, Fischbach stated that he would be unable to appear for trial because he had scheduled another trial for July 7, 2004. This was the first time Fischbach had ever indicated that he would be unable to attend trial. He did not personally appear

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at the trial readiness conference. Instead, Fischbach sent an *appearance counsel* to the trial readiness conference who was not affiliated with Fischbach's law firm, and was unfamiliar with the case. Because a "Declaration for Non-Readiness for Trial" is not a proper method of obtaining a trial continuance, and Lopez did not properly apply for a continuance of trial, the Court had no legal basis on which to order a continuance. The Court then confirmed that trial call would remain set for July 9, 2004.

6. On July 9, 2004, Lopez and his counsel failed to appear for trial, and the trial court issued an Order to Show Cause as to why sanctions should not be issued against them. A true and correct copy of the Order is attached as Exhibit 2 to the Exhibits Compendium.

7. On July 16, 2004, Fischbach appeared before the Court and confirmed that he was in trial on another matter on the dates set for trial in *Union Bank of California v. Francis J. Lopez, et. al.* and stated that his failure to appear at the scheduled trial date was due to a mix-up with co-counsel. No declaration of co-counsel was ever provided to corroborate the existence of the mix-up or how it came to be. Additionally, Lopez provided declarations to the Court from himself and his physician stating Lopez was suffering from "diverticulitis" and was too ill to participate in a trial. A true and correct copy of the Declarations is attached as Exhibit 3 to the Exhibits Compendium. This was the first time the Court had been advised of Lopez's purported diverticulitis. Stanly was aware that Lopez could easily induce the aggravating symptoms of his condition by eating popcorn. The Court continued the trial for approximately 60 days — until September 10, 2004.

8. On September 9, 2004 — one day before the twice-continued trial was set to begin — Lopez applied *ex parte* for a third trial continuance. A true and correct copy of the Ex Parte Application is attached as Exhibit 4 to the Exhibits Compendium. Lopez claimed he was still suffering from diverticulitis, and that the medication he took for it made him "groggy."[1] Lopez further stated that he could not appear for trial due to scheduled colonoscopy and endoscopy

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[1] See, Exhibits Compendium Tab 4.

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procedures.[2] The evidence in support of Lopez's application was defective in that the declarations were not signed under penalty of perjury under the laws of the State of California. The Court ordered the application continued until September 10, 2004, and the Court's minute order provided precise instructions to Lopez as to how to provide a competent declaration. A true and correct copy of that Order is attached as Exhibit 5 to the Exhibits Compendium.

9. On September 10, 2004, Stanly appeared with a proposal for the commencement of trial. Lopez appeared through *appearance counsel* who was not affiliated with Fischbach's law firm, and was unfamiliar with the status of the case. Despite the Court's specific instruction, no competent declaration was provided to support Lopez's request for a third trial continuance. Based on that, the Court denied his request.

10. Trial proceeded on September 14, 2004, wherein Stanly obtained a judgment against Lopez for $50,000.

Francis Lopez v. Alan Stanly

San Diego Superior Court (Case No.: GIN029692)

Case Summary (05/2003 - 06/2005):

11. This case has been stayed by the involuntary bankruptcy petition filed herein. Lopez initially sued Stanly for breach of fiduciary duty, trespassing, conversion and invasion of privacy. All but the invasion of privacy claims were dismissed via a motion for summary adjudication. Stanly counter-claimed on a variety of claims, including breach of fiduciary duty, unfair competition and misappropriation of trade secrets. Stanly obtained many discovery sanctions against Lopez for his discovery violations. Because of the involuntary bankruptcy petition, the Court did not issue monetary sanctions against Lopez. However, prior to the filing of the bankruptcy petition, a discovery referee recommended the issuance of several thousand dollars of discovery sanctions against Lopez, and $5,198.75 of discovery sanctions were issued against Lopez's counsel and co-Plaintiff. The Court also issued evidentiary sanctions against Lopez.

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[2] *Id.*

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Summary of Dilatory / Bad Faith Tactics:

12. Without justification or excuse, Lopez failed to provide any response to Stanly's First Set of written discovery propounded on him on December 31, 2003. Stanly filed a motion to compel discovery responses. During the extended meet and confer process, the parties worked out a resolution whereby Lopez paid Stanly $600 in sanctions and provided Stanly with discovery responses. In exchange, Stanly took the motion off calendar.

13. On July 28, 2004, Stanly propounded a Second Set of written discovery consisting of interrogatories, requests for admission and requests for production on Martin Hudacko ("Hudacko") and Lopez. On September 2, 2004, Hudacko and Lopez provided responses consisting solely of identical boilerplate objections, without a single substantive response. After a meet and confer process, Lopez provided some substantive responses, however, these responses were still woefully inadequate. In addition, Lopez sought a protective order as to certain discovery (based on trade secret protection) and others he claimed he had already answered appropriately.

14. In November of 2004, Lopez moved to appoint a discovery referee. Stanly agreed, and Judge Sarokin was appointed as discovery referee based on the parties' stipulation.

15. On January 7, 2005, Stanly submitted to Judge Sarokin a motion to compel the discovery responses of Hudacko and Lopez. On February 18, 2005, Stanly's motion was granted, and Judge Sarokin ordered Lopez to respond to the written discovery requests and produce response documents. The 02/18/2005 ruling of Judge Sarokin was entered as an order of the trial court.

16. On March 4, 2005 (the ordered production date), Lopez failed, without justification or excuse, to comply with Judge Sarokin's 02/18/2005 Order by failing to provide any responsive documents to Stanly's requests for production of documents. Stanly made several requests to Judge Sarokin for an additional Order requiring Lopez to produce documents, and for the imposition of sanctions against Lopez. On March 24, 2005, Judge Sarokin issued another Order requiring Lopez to produce all responsive documents on or before March 18, 2005.

17. On April 1, 2005, after persistent requests from Stanly's attorneys, and two Orders

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from Judge Sarokin, Lopez finally produced approximately 50 pages of additional materials via email. Although Lopez provided some documents, he still failed, without justification or excuse, to provide a video tape and several documents specifically referred to in his discovery responses. Further, Lopez failed to provide audio recordings and a CD ROM purportedly in his possession.

18. On April 15, 2005, Stanly filed another motion to compel and request for monetary sanctions against Lopez, requesting, amongst other documents, that the audio recordings be produced. On April 28, 2005, Judge Sarokin granted Stanly's motion and demanded Lopez produce all responsive documents, including the audio recordings and the CD ROM.

19. After Judge Sarokin issued the 04/28/2005 Order, Lopez produced some audio recordings, but failed, without justification or excuse, to produce any of the other documents he had been ordered to produce.

20. After several repeated requests for production of the missing documentation, Stanly brought another motion to compel before Judge Sarokin. On June 24, 2005, Judge Sarokin granted the motion, and issued evidentiary and monetary sanctions against Lopez in the amount of $2,000. A true and correct copy of that Order is attached as Exhibit 6 to the Exhibits Compendium.

21. On March 8, 2005, Lopez failed, without justification or excuse, to appear for the deposition of Stanly that Lopez had noticed for that day, causing Stanly and his counsel great expense and inconvenience.

22. Without justification or excuse, Lopez repeatedly served deposition subpoenas on third parties without providing notice of the Subpoenas to Stanly in an effort to secretly obtain discovery without Stanly's knowledge. Stanly was only made aware of Lopez' failure to provide notice of third party depositions after certain witnesses informed Stanly of the subpoenas. Judge Sarokin issued evidentiary sanctions against Lopez for this conduct in his 06/24/2005 Report.[3]

23. Pursuant to the terms of a protective Order issued by Judge Sarokin, and adopted by the trial court, all parties were ordered to provide declarations detailing their use of corporate

[3] See, Exhibits Compendium Tab 6.

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funds for personal expenses. While Stanly complied with this request, Lopez did not. Lopez's declaration failed, without justification or excuse, to describe his use of corporate funds with any particularity. Stanly was forced to bring another motion before Judge Sarokin, requesting that supplemental declarations be ordered. In his 06/24/2005 Report, Judge Sarokin granted Stanly's motion and Ordered supplemental declarations be produced.[4]

24. Lopez refused to stipulate to limit his emotional distress claims pursuant to California Code of Civil Procedure §2032, despite Stanly's repeated requests and Lopez's representations that he would enter into a stipulation. Accordingly, Stanly moved for an Order requiring a medical examination of Lopez. Judge Sarokin issued sanctions against Lopez and his counsel in the amount of $2,948.75 for their failure to initially stipulate. This ruling is contained in Judge Sarokin's 06/24/2005 Report.[5]

25. On October 22, 2004, Stanly served Lopez with a request for a Statement of Damages. Lopez never provided it, despite multiple follow-up requests. Judge Sarokin ordered the Statement served, and Lopez failed to comply with that Order, insisting that the Statement had already been served on Stanly. Judge Sarokin issued monetary sanctions in the amount of $1,245 against Lopez for his failure to comply with his Order. This ruling was also contained in Judge Sarokin's 06/24/2005 Report.[6]

Enterprise Technology Holdings v. Novcon Systems, Inc. et al.

United States District Court for the Southern District of California (Case No.: 05-cv-2236)

Case Summary (12/2005 - Present):

26. Stanly is the President of Enterprise Technology Holdings, Inc. ("ETH") which filed this action against Novcon Systems, Inc., a company whose common stock is all owned by Mrs. Lopez. ETH successfully obtained a preliminary injunction against Novcon, enjoining Novcon, and all those acting in concert with Novcon, from utilizing, selling, licensing or

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[4] See, Exhibits Compendium Tab 6.

[5] See, Exhibits Compendium Tab 6.

[6] See, Exhibits Compendium Tab 6.

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marketing Prism's software (the company formerly owned by Stanly and Lopez). Thereafter, without any proffered justification or excuse, Noveon simply stopped participating in the litigation. Noveon's counsel admitted his client was not participating in the litigation and, as a result, Noveon's counsel withdrew from the case on January 17, 2007. It appears Lopez decided to stop doing business as Noveon, and let the company take the fall in the case. Lopez left the company with no money, no assets and no appointed officers or elected directors.

Although all of the Noveon stock is in his wife's name, Lopez was the company's founder and the person who had managed all the day-to-day operations. The last remaining issue in this case is whether Lopez's wife is an alter-ego of Noveon and thus liable for the company's debts.

Summary of Dilatory / Bad Faith Tactics:

27. In October of 2006, ETH propounded written discovery on Noveon. Noveon failed and refused to respond to the discovery requests even after multiple meet and confer attempts, and two telephonic conferences with Magistrate Judge Catherine Bencivengo.

28. ETH filed a motion for monetary, issue, evidentiary and terminating sanctions against Noveon based on its failure to provide any discovery responses. Noveon failed to oppose the motion. On December 8, 2007, Judge Bencivengo granted ETH's motion and ultimately issued evidentiary, issue and terminating sanctions.

29. On August 16, 2007, the Court granted ETH's motion for a default judgment against Noveon. A true and correct copy of that Order is attached as Exhibit 7 to the Exhibits Compendium.

LOPEZ'S ALLEGATIONS OF UNFAIR BIAS

30. Lopez's apparent *modus operandi* in the Additional Lopez Cases was to allege unfair bias against the judicial officers who issued sanctions or adverse rulings against him.

31. In *Union Bank of California v. Francis J. Lopez, et. al.*, Lopez responded to Judge Sarokin's adverse rulings (described above) by failing to pay his portion of Judge Sarokin's referee fees, and filing a motion to disqualify him based on alleged bias. Based on Lopez's allegations, Judge Sarokin resigned rather than respond to the motion. Lopez also alleged that Judge Jacqueline Stern was biased against him. He filed a complaint against Judge Stern with the

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judicial counsel, and unsuccessfully moved to disqualify her.

32. Likewise, in *Francis Lopez v. Alan Stanly*, Lopez responded to Judge Michael Orfield's adverse rulings by alleging he was unfairly biased against him, and moving for disqualification. Judge Orfield voluntarily recused himself, and the case was referred to Judge Thomas Nugent.

FEES INCURRED FOR PREPARING SUMMARIES RE: LOPEZ'S MISCONDUCT

33. The summaries of the Additional Lopez Cases discussed herein were specifically prepared for Stanly's bankruptcy counsel (Keehn & Associates, APC) by my office in support of Stanly's renewed request for monetary sanctions against Lopez in the above-entitled bankruptcy case. My office spent a total of 6.25 hours compiling the summaries, reviewing past documents, reviewing old case files and finalizing this declaration. Stanly was billed $1,018.75 for actual legal fees incurred, as set forth below:

Attorney Timothy P. Dillon: 1.25 hour ($215 per hour)

Attorney Sunjina Kaur Ahuja: 5.0 hours ($150 per hour)

I declare under penalty of perjury under the law of the United States that the forgoing is true and correct, and that this Declaration was executed on this 26th day of September, 2007, at San Diego, California.

TIMOTHY P. DILLON

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EXHIBIT 4

October 19, 2007
4:25 pm

Keehn & Associates, APC
Detail Time Submittal Report

Ref No	Date	Staff	Client and Matter	Hours	Rate	Amount
9317	8/1/2007 [Billed: 1896]	CKL	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) [redacted]	0.10	100.00	10.00
9345	8/3/2007 [Billed: 1896]	CKL	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) [redacted]	0.20	100.00	20.00
9356	8/6/2007 [Billed: 1896]	CKL	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) [redacted]	0.10	100.00	10.00
9431	8/23/2007 [Billed: 1896]	CKL	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) [redacted]	0.20	100.00	20.00
9956	9/2/2007 [Billed: 1934]	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) REVIEW OF WORLD SAVINGS DOCUMENTS IN PREPARATION FOR UPCOMING DEPOSITION.	0.80	320.00	256.00
9973	9/4/2007 [Billed: 1934]	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) WORK ON DOCUMENT REVIEW AND PREPARATION FOR UPCOMING DEPOSITION.	1.00	320.00	320.00
9991	9/5/2007 [Billed: 1934]	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) E-CORRESPONDENCE WITH CLIENT REGARDING VIDEO TAPE DEPOSITION.	0.10	320.00	32.00
9992	9/5/2007 [Billed: 1934]	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) WORK ON INITIAL PREPARATION FOR DEPOSITION OF FRANCIS LOPEZ.	1.10	320.00	352.00
10519	9/9/2007 [Billed: 1934]	LFK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) WORKED IN SUPPORT OF DEPOSITION OF FRANCIS LOPEZ REGARDING OUTLINE AND SUMMARY OF EVIDENCE PERTAINING TO REQUISITE ELEMENTS OF CLAIM.	1.30	225.00	292.50

Ref No	Date	Staff	Client and Matter	Hours	Rate	Amount
10081	9/10/2007 [Billed: 1934]	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) REVIEW OF DOCUMENTS AND RELATED PREPARATION FOR UPCOMING DEPOSITION	2.60	320.00	832.00
10082	9/10/2007 [Billed: 1934]	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) RRR RECEIPT, REVIEW AND RESPOND TO E-CORRESPONDENCE FROM ATTORNEY HAYES GIVING NOTICE THAT LOPEZ WILL NOT ATTENED HIS 9/11/07 DEPOSITION	0.20	320.00	64.00
10331	9/10/2007 [Billed: 1934]	CKL	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) PARALEGAL SUPPORT REGARDING ATTORNEY PREPARATION FOR UPCOMING DEPOSITION OF FRANCIS LOPEZ.	0.40	100.00	40.00
10333	9/10/2007 [Billed: 1934]	CKL	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) PARALEGAL SUPPORT REGARDING COMPILATION OF TAX DOCUMENTS PRODUCED BY LOPEZ.	0.40	100.00	40.00
10086	9/11/2007 [Billed: 1934]	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) RR RECEIPT AND REVIEW OF E-CORRESPONDENCE FROM CLIENT REGARDING ISSUES WITH FRANCIS LOPEZ	0.20	320.00	64.00
10087	9/11/2007 [Billed: 1934]	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) RR RECEIPT AND PRELIMINARY REVIEW OF MATERIALS FROM TIM DILLON'S OFFICE FOR USE IN SUPPORT OF SANCTIONS MOTIONS AGAINST LOPEZ	0.80	320.00	256.00
10088	9/11/2007 [Billed: 1934]	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) [redacted]	0.80	320.00	256.00
10140	9/13/2007 [Billed: 1934]	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) [redacted]	0.10	320.00	32.00
10141	9/13/2007 [Billed: 1934]	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) [redacted]	0.10	320.00	32.00

Ref No	Date	Staff	Client and Matter	Hours	Rate	Amount
			REQUEST.			
10217	9/17/2007 [Billed: 1934]	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) [redacted]	0.10	320.00	32.00
10218	9/17/2007 [Billed: 1934]	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) ECO E-CORRESPONDENCE TO JOHN HAYES REGARDING DEPOSITION ISSUES	0.10	320.00	32.00
10351	9/17/2007 [Billed: 1934]	CKL	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) [redacted]	0.10	100.00	10.00
10553	9/18/2007 [Billed: 1934]	LFK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) REVIEWED SUMMARIES AND SUPPORTING DOCUMENTS PERTAINING TO LOPEZ'S DILATORY/BAD FAITH LITIGATION TACTICS PROVIDED BY THE OFFICES OF DILLON & GERARDI, APC; WORKED ON DRAFT OF COMPREHENSIVE SUMMARY OF LOPEZ'S DILATORY/BAD FAITH LITIGATION TACTICS IN SUPPORT OF PETITIONING CREDITORS' REQUEST FOR SANCTIONS; DRAFTED EMAIL CORRESPONDENCE TO ATTORNEY SUNJINA K. AHUJA IN SUPPORT OF SAME.	3.90	225.00	877.50
10240	9/19/2007 [Billed: 1934]	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) TCW TELEPHONE CONFERENCE WITH ALAN STANLY REGARDING SANCTIONS MOTIONS AND RELATED ISSUES	0.40	320.00	128.00
10241	9/19/2007 [Billed: 1934]	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) WORK ON PREPARATION FOR LOPEZ DEPOSITION AND GROUND WORK FOR SANCTIONS MOTION	1.70	320.00	544.00
10253	9/20/2007 [Billed: 1934]	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) RRR RECEIPT, REVIEW AND RESPOND TO E-CORRESPONDENCE FROM ATTORNEY HAYES REGARDING DEPOSITION	0.20	320.00	64.00
10254	9/20/2007 [Billed: 1934]	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) TCW TELEPHONE CONFERENCE WITH CLIENT REGARDING FOLLOW-UP RE: SANCTIONS AND	0.30	320.00	96.00

Ref No	Date	Staff	Client and Matter	Hours	Rate	Amount
			RELATED ISSUES			
10255	9/20/2007 [Billed: 1934]	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) WORK ON DEVELOPMENT OF EVIDENTIARY RECORD FOR SANCTIONS HEARING	1.60	320.00	512.00
10574	9/20/2007 [Billed: 1934]	LFK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) RECEIVED AND REVIEWED EMAIL CORRESPONDENCE FROM ATTORNEY SUNJINA K. AHUJA REGARDING LOPEZ'S DILATORY/BAD FAITH LITIGATION TACTICS; COMPLETED DRAFT OF COMPREHENSIVE SUMMARY OF LOPEZ'S DILATORY/BAD FAITH LITIGATION TACTICS IN SUPPORT OF PETITIONING CREDITORS' RENEWED REQUEST FOR SANCTIONS.	1.30	225.00	292.50
10277	9/21/2007 [Billed: 1934]	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) WORK ON EVIDENTIARY SUPPORT FOR SANCTIONS MOTIONS	1.30	320.00	416.00
10586	9/24/2007 [Billed: 1934]	LFK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) FINALIZED SUMMARY OF LOPEZ'S DILATORY/BAD FAITH LITIGATION TACTICS; DRAFTED CORRESPONDING COMPENDIUM OF EXHIBITS; DRAFTED DECLARATION OF TIMOTHY P. DILLON REGARDING LOPEZ'S DILATORY/BAD FAITH LITIGATION TACTICS.	6.60	225.00	1485.00
10403	9/25/2007 [Billed: 1934]	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) REVISE AND EDIT PROPOSED DECLARATION FOR TIMOTHY DILLON	0.40	320.00	128.00
10404	9/25/2007 [Billed: 1934]	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) RRR RECEIPT, REVIEW AND RESPOND TO E-CORRESPONDENCE FROM CLIENT RE: SAME	0.20	320.00	64.00
10405	9/25/2007 [Billed: 1934]	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) WORK ON SANCTIONS MOTION	0.50	320.00	160.00
10588	9/25/2007 [Billed: 1934]	LFK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) FINALIZED COMPENDIUM OF EXHIBITS REGARDING LOPEZ'S DILATORY/BAD FAITH LITIGATION TACTICS; REVISED AND FINALIZED DECLARATION OF TIMOTHY P. DILLON REGARDING LOPEZ'S DILATORY/BAD FAITH LITIGATION TACTICS; DRAFTED DECLARATION OF L. SCOTT KEEHN REGARDING LOPEZ'S DILATORY/BAD FAITH LITIGATION TACTICS.	4.30	225.00	967.50

Ref No	Date	Staff	Client and Matter	Hours	Rate	Amount
10409	9/26/2007 [Billed: 1934]	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) RRR RECEIPT, REVIEW AND RESPOND TO MULTIPLE E-CORRESPONDENCE REGARDING DECLARATIONS	0.20	320.00	64.00
10410	9/26/2007 [Billed: 1934]	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) [redacted]	0.40	320.00	128.00
10591	9/26/2007 [Billed: 1934]	LFK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) REVIEWED EMAILS FROM ATTORNEY DILLON AND CLIENT; REVISED DILLON DECLARATION.	0.80	225.00	180.00
10440	9/27/2007 [Billed: 1934]	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) [redacted]	1.80	320.00	576.00
10441	9/27/2007 [Billed: 1934]	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) [redacted]	0.30	320.00	96.00
10442	9/27/2007 [Billed: 1934]	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) [redacted]	0.30	320.00	96.00
10599	9/27/2007 [Billed: 1934]	LFK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) FINALIZED DECLARATION OF TIMOTHY P. DILLON REGARDING LOPEZ'S DILATORY/BAD FAITH LITIGATION TACTICS; WORKED IN SUPPORT OF FILING PETITIONING CREDITORS' RENEWED REQUEST FOR MONETARY SANCTIONS AGAINST LOPEZ.	0.30	225.00	67.50
10740	9/28/2007 [Billed: 1934]	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) RECEIVE, REVIEW AND RESPOND TO E-CORRESPONDENCE FROM ATTORNEY HAYES REGARDING SANCTIONS ISSUE.	0.20	320.00	64.00
10868	10/1/2007	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) [redacted]	0.20	320.00	64.00

Ref No	Date	Staff	Client and Matter	Hours	Rate	Amount
10869	10/1/2007	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) WOF WORK ON FOLLOW-UP REGARDING SANCTIONS MOTION	0.20	320.00	64.00
10871	10/1/2007	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) [redacted]	0.90	320.00	288.00
10872	10/1/2007	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) [redacted]	1.00	320.00	320.00
10961	10/1/2007	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) [redacted]	1.00	320.00	320.00
10911	10/3/2007	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) [redacted]	0.10	320.00	32.00
10912	10/3/2007	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) [redacted]	0.10	320.00	32.00
10935	10/4/2007	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) WOF WORK ON FOLLOW-UP REGARDING PRESENTATION OF EVIDENTIARY MATERIALS IN SUPPORT OF SANCTIONS MOTION	0.90	320.00	288.00
10950	10/5/2007	LSK	05311001 MR. ALAN STANLY RE: INVOLUNTARY CHAPTER 7 PETITION (LOPEZ) [redacted]	0.10	320.00	32.00
			Daily Total (Billable)	42.30		11448.50 **
			Grand Total (Billable)	42.30		11448.50 **

EXHIBIT C

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Attorneys for Petitioning Creditors

UNITED STATES BANKRUPTCY COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

In Re: FRANCIS J. LOPEZ, Alleged Debtor.	Case No. 05-05926-PBINV **DECLARATION OF TIMOTHY P. DILLON [BIFURCATED PHASE II]** Date: October 1, 2007 (Status Conference) Time: 10:30 a.m. Judge: The Honorable Peter W. Bowie Ctrm: 4

I, TIMOTHY P. DILLON, declare as follows:

1. I am an attorney duly admitted to practice before the Courts of this State. I am a shareholder of the law firm of Dillon & Gerardi, APC, counsel for Petitioning Creditor Alan Stanly ("Stanly") in certain cases involving the alleged debtor herein, Francis J. Lopez ("Lopez"), which were and/or are pending before the San Diego Superior Court and the United States District Court for the Southern District of California (the "Additional Lopez Cases"). In connection with the Additional Lopez Cases, I am the *shareholder in charge* of the engagement of the firm on behalf of Stanly, and the attorney within the firm who is most knowledgeable with respect to all aspects of the Additional Lopez Cases. I make this Declaration based upon facts within my

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firsthand knowledge acquired in the course of conducting litigation against Lopez in the Additional Lopez Cases.

2. The delay and bad-faith litigation tactics employed by Lopez and his counsel throughout the Additional Lopez Cases are summarized below.

Union Bank of California v. Francis J. Lopez, et. al.

San Diego Superior Court(Case No.: GIN 030827)

Case Summary (06/2003 - 09/2004):

3. In or about June of 2003, Union Bank of California initiated a litigation against both Lopez and Stanly as guarantors of a loan which their corporation, Prism, had defaulted on. Both Lopez and Stanly filed cross-claims against each other for contribution and indemnity. Lopez and Stanly eventually settled with Union Bank. Stanly prevailed on a motion for good faith settlement and obtained a dismissal of Lopez's cross-claims. At time of trial, the sole issues left in the case were Stanly's claims against Lopez for indemnity and contribution. Trial in the Union Bank matter was continued several times due to Lopez's dilatory conduct, as more fully set forth below. When the Court finally held trial, neither Lopez nor his counsel appeared. Trial proceeded without Lopez.

Summary of Dilatory / Bad Faith Tactics:

4. On March 9, 2004, Lopez requested a trial continuance due to the "illness of his wife's aunt." Based on that request, the parties ultimately stipulated to continue the trial for four months — until July 9, 2004.

5. On July 2, 2004 — the date of the trial readiness conference — Lopez's attorney, Joseph Fischbach ("Fischbach"), faxed a "Declaration re: Non-Readiness for Trial" to my office. A true and correct copy of that Declaration is attached hereto as Exhibit 1 to the "Compendium of Exhibits in Support of Renewed Request for an Enforcement Order Imposing Monetary Sanctions Against Alleged Debtor Francis J. Lopez" (hereinafter referred to as the "Exhibits Compendium") filed concurrently herewith. In his Declaration, Fischbach stated that he would be unable to appear for trial because he had scheduled another trial for July 7, 2004. This was the first time Fischbach had ever indicated that he would be unable to attend trial. He did not personally appear

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at the trial readiness conference. Instead, Fischbach sent an *appearance counsel* to the trial readiness conference who was not affiliated with Fischbach's law firm, and was unfamiliar with the case. Because a "Declaration for Non-Readiness for Trial" is not a proper method of obtaining a trial continuance, and Lopez did not properly apply for a continuance of trial, the Court had no legal basis on which to order a continuance. The Court then confirmed that trial call would remain set for July 9, 2004.

6. On July 9, 2004, Lopez and his counsel failed to appear for trial, and the trial court issued an Order to Show Cause as to why sanctions should not be issued against them. A true and correct copy of the Order is attached as Exhibit 2 to the Exhibits Compendium.

7. On July 16, 2004, Fischbach appeared before the Court and confirmed that he was in trial on another matter on the dates set for trial in *Union Bank of California v. Francis J. Lopez, et. al.* and stated that his failure to appear at the scheduled trial date was due to a mix-up with co-counsel. No declaration of co-counsel was ever provided to corroborate the existence of the mix-up or how it came to be. Additionally, Lopez provided declarations to the Court from himself and his physician stating Lopez was suffering from "diverticulitis" and was too ill to participate in a trial. A true and correct copy of the Declarations is attached as Exhibit 3 to the Exhibits Compendium. This was the first time the Court had been advised of Lopez's purported diverticulitis. Stanly was aware that Lopez could easily induce the aggravating symptoms of his condition by eating popcorn. The Court continued the trial for approximately 60 days — until September 10, 2004.

8. On September 9, 2004 — one day before the twice-continued trial was set to begin — Lopez applied *ex parte* for a third trial continuance. A true and correct copy of the Ex Parte Application is attached as Exhibit 4 to the Exhibits Compendium. Lopez claimed he was still suffering from diverticulitis, and that the medication he took for it made him "groggy."[1] Lopez further stated that he could not appear for trial due to scheduled colonoscopy and endoscopy

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[1] See, Exhibits Compendium Tab 4.

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procedures.[2] The evidence in support of Lopez's application was defective in that the declarations were not signed under penalty of perjury under the laws of the State of California. The Court ordered the application continued until September 10, 2004, and the Court's minute order provided precise instructions to Lopez as to how to provide a competent declaration. A true and correct copy of that Order is attached as Exhibit 5 to the Exhibits Compendium.

9. On September 10, 2004, Stanly appeared with a proposal for the commencement of trial. Lopez appeared through *appearance counsel* who was not affiliated with Fischbach's law firm, and was unfamiliar with the status of the case. Despite the Court's specific instruction, no competent declaration was provided to support Lopez's request for a third trial continuance. Based on that, the Court denied his request.

10. Trial proceeded on September 14, 2004, wherein Stanly obtained a judgment against Lopez for $50,000.

Francis Lopez v. Alan Stanly

San Diego Superior Court (Case No.: GIN029692)

Case Summary (05/2003 - 06/2005):

11. This case has been stayed by the involuntary bankruptcy petition filed herein. Lopez initially sued Stanly for breach of fiduciary duty, trespassing, conversion and invasion of privacy. All but the invasion of privacy claims were dismissed via a motion for summary adjudication. Stanly counter-claimed on a variety of claims, including breach of fiduciary duty, unfair competition and misappropriation of trade secrets. Stanly obtained many discovery sanctions against Lopez for his discovery violations. Because of the involuntary bankruptcy petition, the Court did not issue monetary sanctions against Lopez. However, prior to the filing of the bankruptcy petition, a discovery referee recommended the issuance of several thousand dollars of discovery sanctions against Lopez, and $5,198.75 of discovery sanctions were issued against Lopez's counsel and co-Plaintiff. The Court also issued evidentiary sanctions against Lopez.

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[2] *Id.*

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Summary of Dilatory / Bad Faith Tactics:

12. Without justification or excuse, Lopez failed to provide any response to Stanly's First Set of written discovery propounded on him on December 31, 2003. Stanly filed a motion to compel discovery responses. During the extended meet and confer process, the parties worked out a resolution whereby Lopez paid Stanly $600 in sanctions and provided Stanly with discovery responses. In exchange, Stanly took the motion off calendar.

13. On July 28, 2004, Stanly propounded a Second Set of written discovery consisting of interrogatories, requests for admission and requests for production on Martin Hudacko ("Hudacko") and Lopez. On September 2, 2004, Hudacko and Lopez provided responses consisting solely of identical boilerplate objections, without a single substantive response. After a meet and confer process, Lopez provided some substantive responses, however, these responses were still woefully inadequate. In addition, Lopez sought a protective order as to certain discovery (based on trade secret protection) and others he claimed he had already answered appropriately.

14. In November of 2004, Lopez moved to appoint a discovery referee. Stanly agreed, and Judge Sarokin was appointed as discovery referee based on the parties' stipulation.

15. On January 7, 2005, Stanly submitted to Judge Sarokin a motion to compel the discovery responses of Hudacko and Lopez. On February 18, 2005, Stanly's motion was granted, and Judge Sarokin ordered Lopez to respond to the written discovery requests and produce response documents. The 02/18/2005 ruling of Judge Sarokin was entered as an order of the trial court.

16. On March 4, 2005 (the ordered production date), Lopez failed, without justification or excuse, to comply with Judge Sarokin's 02/18/2005 Order by failing to provide any responsive documents to Stanly's requests for production of documents. Stanly made several requests to Judge Sarokin for an additional Order requiring Lopez to produce documents, and for the imposition of sanctions against Lopez. On March 24, 2005, Judge Sarokin issued another Order requiring Lopez to produce all responsive documents on or before March 18, 2005.

17. On April 1, 2005, after persistent requests from Stanly's attorneys, and two Orders

from Judge Sarokin, Lopez finally produced approximately 50 pages of additional materials via email. Although Lopez provided some documents, he still failed, without justification or excuse, to provide a video tape and several documents specifically referred to in his discovery responses. Further, Lopez failed to provide audio recordings and a CD ROM purportedly in his possession.

18. On April 15, 2005, Stanly filed another motion to compel and request for monetary sanctions against Lopez, requesting, amongst other documents, that the audio recordings be produced. On April 28, 2005, Judge Sarokin granted Stanly's motion and demanded Lopez produce all responsive documents, including the audio recordings and the CD ROM.

19. After Judge Sarokin issued the 04/28/2005 Order, Lopez produced some audio recordings, but failed, without justification or excuse, to produce any of the other documents he had been ordered to produce.

20. After several repeated requests for production of the missing documentation, Stanly brought another motion to compel before Judge Sarokin. On June 24, 2005, Judge Sarokin granted the motion, and issued evidentiary and monetary sanctions against Lopez in the amount of $2,000. A true and correct copy of that Order is attached as Exhibit 6 to the Exhibits Compendium.

21. On March 8, 2005, Lopez failed, without justification or excuse, to appear for the deposition of Stanly that Lopez had noticed for that day, causing Stanly and his counsel great expense and inconvenience.

22. Without justification or excuse, Lopez repeatedly served deposition subpoenas on third parties without providing notice of the Subpoenas to Stanly in an effort to secretly obtain discovery without Stanly's knowledge. Stanly was only made aware of Lopez' failure to provide notice of third party depositions after certain witnesses informed Stanly of the subpoenas. Judge Sarokin issued evidentiary sanctions against Lopez for this conduct in his 06/24/2005 Report.[3]

23. Pursuant to the terms of a protective Order issued by Judge Sarokin, and adopted by the trial court, all parties were ordered to provide declarations detailing their use of corporate

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[3] See, Exhibits Compendium Tab 6.

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funds for personal expenses. While Stanly complied with this request, Lopez did not. Lopez's declaration failed, without justification or excuse, to describe his use of corporate funds with any particularity. Stanly was forced to bring another motion before Judge Sarokin, requesting that supplemental declarations be ordered. In his 06/24/2005 Report, Judge Sarokin granted Stanly's motion and Ordered supplemental declarations be produced.[4]

24. Lopez refused to stipulate to limit his emotional distress claims pursuant to California Code of Civil Procedure §2032, despite Stanly's repeated requests and Lopez's representations that he would enter into a stipulation. Accordingly, Stanly moved for an Order requiring a medical examination of Lopez. Judge Sarokin issued sanctions against Lopez and his counsel in the amount of $2,948.75 for their failure to initially stipulate. This ruling is contained in Judge Sarokin's 06/24/2005 Report.[5]

25. On October 22, 2004, Stanly served Lopez with a request for a Statement of Damages. Lopez never provided it, despite multiple follow-up requests. Judge Sarokin ordered the Statement served, and Lopez failed to comply with that Order, insisting that the Statement had already been served on Stanly. Judge Sarokin issued monetary sanctions in the amount of $1,245 against Lopez for his failure to comply with his Order. This ruling was also contained in Judge Sarokin's 06/24/2005 Report.[6]

Enterprise Technology Holdings v. Noveon Systems, Inc. et al.

United States District Court for the Southern District of California (Case No.: 05-cv-2236)

Case Summary (12/2005 - Present):

26. Stanly is the President of Enterprise Technology Holdings, Inc. ("ETH") which filed this action against Noveon Systems, Inc., a company whose common stock is all owned by Mrs. Lopez. ETH successfully obtained a preliminary injunction against Noveon, enjoining Noveon, and all those acting in concert with Noveon, from utilizing, selling, licensing or

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[4] See, Exhibits Compendium Tab 6.

[5] See, Exhibits Compendium Tab 6.

[6] See, Exhibits Compendium Tab 6.

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marketing Prism's software (the company formerly owned by Stanly and Lopez). Thereafter, without any proffered justification or excuse, Noveon simply stopped participating in the litigation. Noveon's counsel admitted his client was not participating in the litigation and, as a result, Noveon's counsel withdrew from the case on January 17, 2007. It appears Lopez decided to stop doing business as Noveon, and let the company take the fall in the case. Lopez left the company with no money, no assets and no appointed officers or elected directors.

Although all of the Noveon stock is in his wife's name, Lopez was the company's founder and the person who had managed all the day-to-day operations. The last remaining issue in this case is whether Lopez's wife is an alter-ego of Noveon and thus liable for the company's debts.

Summary of Dilatory / Bad Faith Tactics:

27. In October of 2006, ETH propounded written discovery on Noveon. Noveon failed and refused to respond to the discovery requests even after multiple meet and confer attempts, and two telephonic conferences with Magistrate Judge Catherine Bencivengo.

28. ETH filed a motion for monetary, issue, evidentiary and terminating sanctions against Noveon based on its failure to provide any discovery responses. Noveon failed to oppose the motion. On December 8, 2007, Judge Bencivengo granted ETH's motion and ultimately issued evidentiary, issue and terminating sanctions.

29. On August 16, 2007, the Court granted ETH's motion for a default judgment against Noveon. A true and correct copy of that Order is attached as Exhibit 7 to the Exhibits Compendium.

LOPEZ'S ALLEGATIONS OF UNFAIR BIAS

30. Lopez's apparent *modus operandi* in the Additional Lopez Cases was to allege unfair bias against the judicial officers who issued sanctions or adverse rulings against him.

31. In *Union Bank of California v. Francis J. Lopez, et. al.*, Lopez responded to Judge Sarokin's adverse rulings (described above) by failing to pay his portion of Judge Sarokin's referee fees, and filing a motion to disqualify him based on alleged bias. Based on Lopez's allegations, Judge Sarokin resigned rather than respond to the motion. Lopez also alleged that Judge Jacqueline Stern was biased against him. He filed a complaint against Judge Stern with the

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judicial counsel, and unsuccessfully moved to disqualify her.

32. Likewise, in *Francis Lopez v. Alan Stanly*, Lopez responded to Judge Michael Orfield's adverse rulings by alleging he was unfairly biased against him, and moving for disqualification. Judge Orfield voluntarily recused himself, and the case was referred to Judge Thomas Nugent.

FEES INCURRED FOR PREPARING SUMMARIES RE: LOPEZ'S MISCONDUCT

33. The summaries of the Additional Lopez Cases discussed herein were specifically prepared for Stanly's bankruptcy counsel (Keehn & Associates, APC) by my office in support of Stanly's renewed request for monetary sanctions against Lopez in the above-entitled bankruptcy case. My office spent a total of 6.25 hours compiling the summaries, reviewing past documents, reviewing old case files and finalizing this declaration. Stanly was billed $1,018.75 for actual legal fees incurred, as set forth below:

Attorney Timothy P. Dillon: 1.25 hour ($215 per hour)

Attorney Sunjina Kaur Ahuja: 5.0 hours ($150 per hour)

I declare under penalty of perjury under the law of the United States that the foregoing is true and correct, and that this Declaration was executed on this 26th day of September, 2007, at San Diego, California.

TIMOTHY P. DILLON

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UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA

SAN DIEGO DIVISION

In Re: FRANCIS J. LOPEZ, Alleged Debtor	CASE NO. 05-05926-PBINV Involuntary Chapter 7 **OPPOSITION OF ALLEGED DEBTOR TO MOTION FOR TERMINATING SANCTIONS; DECLARATION OF FRANCIS J. LOPEZ IN SUPPORT THEREOF** Date: January 28, 2007 Time: 10:30 a.m. Ctrm: 4

TO THE HONORABLE PETER W. BOWIE, UNITED STATES BANKRUPTCY JUDGE, TO MOVANT PETITIONING CREDITOR ALAN STANLY:

The Declaration of Francis Lopez attached hereto is in response to the Motion for Terminating Sanctions filed by Mr. Keehn. The Motion is based on the failure of Mr. Lopez to pay sanctions to Mr. Keehn in the amount of $8,130.50.

This is a case about an alleged Debtor who owns a home with his wife in Florida and virtually nothing else. The Petitioning Creditor has acknowledged that. The Alleged

Debtor attempted to pay every creditor including Mr. Stanly more than a year ago which motion was opposed by Mr. Stanly. The Court was inundated with the bills and debts of Mr. Lopez at the previous Motion for Summary Judgment re the total number of creditors. The Court knows that there are very few creditors of this estate who are owed small amounts beyond Mr. Stanly.

Mr. Lopez prays that this court deny the motion to strike the Answer and set a trial date. Mr. Keehn, the attorney for the single petitioning creditor, has advised the court on more than one occasion that once the deposition of Mr. Lopez was complete, he would file a Motion for Summary Judgment as to Phase II. Mr. Lopez traveled to San Diego at his own cost without a court order requiring him to do so and appeared for his deposition on October 23, 2007. He answered the questions of Mr. Keehn for more than six hours. The long trail of this case is ready to finish. The Court should not allow it to be short-circuited by striking the Answer.

As to the Sanctions, Mr. Lopez, through counsel, offered on December 17, 2007 to pay $4,000 of the sanctions immediately and $1,000 per month for four months thereafter. See **Exhibit "A."** Mr. Keehn responded on December 20, 2007 with a resounding "no." That email communication is not attached because it contained other settlement discussion.

Terminating sanctions is an extreme remedy which should not be assessed except in extraordinary circumstances. Here Mr. Lopez has provided every document in his possession, responded to written discovery more than once, and attended his deposition twice. Nothing has been withheld; the most that has happened is that Mr. Lopez has perhaps been dilatory with some of his responses and in making preparations to attend his second deposition in San Diego. There was one Motion to Compel which was complied with. The Second Motion to Compel resulted in an Order of this court prohibiting Mr. Lopez from introducing any document as evidence that had not already been produced. There was no finding of the court that Mr. Lopez had in any way violated the Order from the first Motion to Compel. Counsel for Lopez agreed to the prohibitory order after explaining to the court that there were simply no further documents that were relevant that could be produced. There is no discovery order that Mr. Lopez has failed to comply with. There was no order to appear for his deposition. Mr. Lopez voluntarily traveled to San Diego for the convenience of Mr. Keehn without a court order.

In *Wyle v. R.J Reynolds Inductries, Inc.* 709 F.2d 585 (9th Cir. 1983), the court said, "courts have inherent power to dismiss an action when a party has willfully deceived the court and engaged in conduct utterly inconsistent with the orderly administration of justice." There is no deceit on behalf of Mr. Lopez. The *Wylie* court said, "[B]ecause dismissal is so harsh a penalty, it should be imposed only in extreme circumstances" citing *Raiford v. Pounds,* 640 F.2d 944,945 (9th Cir. 1981). "Sanctions interfering with a litigant's claim or defenses violate due process when imposed merely for punishment of an infraction that did not threaten to interfere with the rightful decision of the case." Citing *G-K Properties v. Redevelopment Agency*, 577 F.2d 645, 648 (9th Cir. 1978).

Mr. Keehn has received every document he has requested. He has taken two depositions over two full day periods. He has told the court he will file a Motion for Summary Judgment once the deposition is complete. The deposition is complete. Mr. Keehn has not suggested that Mr. Lopez refused to respond to any question asked or that the delay in flying to California of about five weeks resulted in any prejudice or harm to his ability to go through with his Motion for Summary Judgment.

The *Wylie* court "determined that the deliberate deception and the irreparable loss of material evidence justified the sanction of dismissal." There has been no deliberate deception and no loss of anything.

In *Matter of Visioneering Const.*, 661 F.2d 119, 123 (9th Cir. 1981), an involuntary petition case, the court struck the Answer. The court said," [The alleged debtor's] near total refusal to facilitate discovery related to the jurisdictional factual issues and continued failure to respect discovery orders were therefore justifiably sanctioned by the entry of default." There has been no "near total refusal." Mr. Lopez has provided hundreds of pages of documents to Mr. Keehn.

Wherefore Alleged Debtor Francis Lopez prays that the court deny this motion, allow him to pay the sanctions in payments of $4,000 immediately and $1,000 per month and set a date to hear the Motion for Summary Judgment that Stanly has long promised to file.

Dated: January 14, 2008

Respectfully submitted

By: [signature]

M. Jonathan Hayes
Attorney for Alleged Debtor Francis Lopez

DECLARATION OF FRANCIS LOPEZ

I, Francis Lopez, declare and state as follows:

1. I am the alleged debtor in this involuntary proceeding. I have personal knowledge of the facts stated herein, and if called as a witness, I could and would testify competently thereto.

2. I did not make the sanctions payment because I was unable to come up with the full amount of the sanctions in Mid-December. I authorized my attorney to offer to pay $4,000 immediately and $1,000 per month until paid.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief. Executed on this 14th day of January, 2008 at Destin, Florida.

By: [signature]

Francis Lopez

M. Jonathan Hayes

From: "M. Jonathan Hayes" <jhayes@polarisnet.net>
To: "L. Scott Keehn" <scottk@keehnlaw.com>
Sent: Wednesday, December 19, 2007 11:05 AM
Subject: Francis Lopez Sanctions

Mr. Keehn,

My client does not have the $8,100 in sanction to pay now. He can pay you $4,000 now and $1,000 per month until paid. Let me know if that will work.

Thanks, Jon Hayes

M. Jonathan Hayes
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If you have received this message in error, please call (818) 710-3656
and notify me of that fact and destroy all copies of this message."
Thank you.

PROOF OF SERVICE

I, MJ Hayes, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is 21800 Oxnard St., Suite 840, Woodland Hills, CA 91367. On January 15, 2008, I served the within documents:

OPPOSITION OF ALLEGED DEBTOR TO MOTION FOR TERMINATING SANCTIONS; DECLARATION OF FRANCIS J. LOPEZ IN SUPPORT THEREOF

by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.

X by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as set forth below.

.. by causing personal delivery by __________ of the document(s) listed above to the person(s) at the address(es) set forth below.

.. by placing the document(s) listed above in a sealed __________ envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a __________ agent for delivery

.. by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

L. Scott Keehn
KEEHN & Assoc, APC
402 W. Broadway, Suite 1210
San Diego, CA 92101
AND BY EMAIL

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on January 15, 2008, at Los Angeles, California.

[signature]
MJ Hayes

L. Scott Keehn, SBN 61691
Leslie F. Keehn, SBN 199153
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Attorneys for **Appellee**

UNITED STATES BANKRUPTCY COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

In Re: **FRANCIS J. LOPEZ,** Debtor. ______________________________ **FRANCIS J. LOPEZ,** Appellant, v. **ALAN STANLY,** Appellee. ______________________________	Case No. 05-05926-PB7 APPEAL NO. 2 **APPELLEE'S SUPPLEMENTAL RECORD ON APPEAL** **[VOLUME 9 OF 9]** Judge: The Honorable Peter W. Bowie Ctrm: 4

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Attorneys for **Petitioning Creditors**

UNITED STATES BANKRUPTCY COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

In Re: FRANCIS J. LOPEZ, Alleged Debtor.	Case No. 05-05926-PBINV **REPLY TO OPPOSITION TO MOTION FOR AN ORDER IMPOSING TERMINATING SANCTIONS AGAINST THE DEBTOR** **[BIFURCATED PHASE II]** Date: January 28, 2008 Time: 10:30 a.m. Judge: The Honorable Peter W. Bowie Ctrm: 4

Petitioning Creditors respectfully submit their Reply to Alleged Debtor Francis J. Lopez's Opposition to their Motion for an Order from this Court imposing terminating sanctions against Lopez by striking his answer and entering an Order for Relief forthwith.

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TABLE OF CONTENTS

I. INTRODUCTION 1

II. FACTUAL BACKGROUND 2

A. Procedural History 2

B. Evidence of Affluence 4

III. DISCUSSION 5

A. Lopez Has Not Been Candid With the Court and His Claimed Inability to Pay the Sanctions Award is Disingenuous. 5

B. The Evidence Offered by Lopez in Support of His Opposition is Specious and Conclusory. 7

C. The Lopez Bank Account Is Marital Property and Available to the Creditors of Both Francis and Madeleine Lopez 8

D. Lopez Should Have Followed Appropriate Procedure to Obtain the Requested Relief from this Court's Order 9

IV. CONCLUSION 10

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I. INTRODUCTION

So as they say in New York: *Enough already!*[1]
Hon. John S. Rodes, Sr. United States District Court Judge (Deceased)

Despite an apparent annual income of approximately $123,800,[2] Lopez continues his long history of non-cooperation and non-compliance with an unsupported and disingenuous protestation of poverty. Enough is enough. Since this Petition was filed over two and one half years ago, Lopez's discovery misconduct has made a mockery of these proceedings and this Court's authority. And through it all, Lopez has avoided paying even one penny of the $8,130.50 in accrued monetary sanctions that this Court ordered he pay on or before December 19, 2007, after multiple warnings and deferment of the Order for over ten months.

Lopez's Opposition is more of the same old thing — i.e., Lopez purporting to cooperate while bemoaning his victimization at the hands of Petitioning Creditors, and, ultimately, not actually doing anything to process this case forward, fulfill his duties as a litigant, or comply with the lawful orders of the court. His Opposition claims he has fully cooperated with all discovery requests, and even voluntarily appeared for his own deposition. What he fails to acknowledge is that the limited discovery Petitioning Creditors were able to squeeze out of him were extracted at the cost of over a year of relentless effort, and three motions to compel that which should have been voluntarily tendered.

Lopez then feigns good faith by suggesting – but not tendering – a partial payment to be followed by monthly installments to pay the sanctions over a five-month period of time (i.e., $4,000 "*immediately*" and $1,000 per month thereafter).[3] Again, what he does not say and what he fails to do are far more significant than what he does say. Specifically, he fails to explain why he has not proffered any evidence of his inability to pay the sanctions award in full; and he fails to explain why, if he is truly sincere about making a good faith effort to pay the award, he has failed to pay even the $4,000 he admits to having the immediate ability to pay, rather than just dangling the prospect of partial payment to create leverage to coerce a protracted payment plan. A man acting in good faith does not withhold an obligatory payment to create a negotiating advantage. But Lopez is not a man acting in good faith so he does exactly that.

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[1] See: *40235 Washington St. Corp. v. W.D. Lusardi* 177 F. Supp. 2nd 1090, 1107 (S.D. Cal, 2001), *Affirmed* on other grounds by *Lusardi v. 40235 Washington St. Corp.* 329 F3d1076 (9th Cir (Cal) 2003. (Judge Rhoades lamenting – with substantial justification – the waste of judicial resources. It is a sentiment that has both value and wisdom when applied here.)

[2] See Declaration of Cynthia K. Lay ("Lay Decl.") filed concurrently herewith at ¶¶ 8-10 and Exhibit 3.

[3]. See, Lopez's Opposition, page 4, lines 1 - 2.

Evidence obtained by Petitioning Creditors suggests that Lopez does have the ability to immediately pay the sanctions award in full, but is simply choosing not to do so. The choice is obviously economically convenient and it is strategically beneficial as well. The strategy is simple. Lopez has insured that every inch of progress made by the Petitioning Creditors comes at the price of unnecessary costs and as well as delay. By the simple expedient of increasing the costs of litigation, Lopez can economially eviscerate the utility of the remedy sought. Under the cover of delay he can further dilute the value of the remedy here by incurring new debt that catapults abroad of all pre-petition creditors as administrative gap claims. His choice reflects a pattern of behavior and purpose that is insidious, inexcusable, and intolerable.

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II. FACTUAL BACKGROUND

A. PROCEDURAL HISTORY

- **January 29, 2007.** The sanctions odyssey begins with Petitioning Creditors first Motion to Compel Discovery (Docket Item 91 [Sanctions requested $4,242]).
- **November 19, 2007.** The Court imposes its sanctions of $8,130.50 and makes it clear that they are entirely due and payable thirty (30) days from that date – December 19, 2007 (the "Sanctions Deadline"). The Court also admonishes Lopez, through his counsel, that failure to pay the sanctions could result in terminating sanctions.[4] That admonishment concludes with this point-blank warning:

> But at this point in time, those sums will be required to be paid within thirty days to Mr. Keehn's firm. And your client should be made very aware, Mr. Hayes, that if he fails to pay that total sum

[4] See Declaration of L. Scott Keehn filed concurrently herewith at ¶2 and Exhibit 1 (Transcript of the 11/19/07 Hearing at p. 16, ln. 9 to p. 18, ln. 13).

> within thirty days of today's date – and that's today's date, not the date of the entry of the order – within thirty days of today's date, I will consider a terminating sanction motion to strike his opposition to the petition. And we'll take it from there.[5]

- **November 26, 2007.** Petitioning Creditors send Lopez's counsel a copy of the lodged Sanction Order together with wire transfer instructions for Keehn & Associates, APC, general operating account to facilitate timely compliance. The accompanying Transmittal Memorandum emphasizes the importance of timely payment as follows:

> The court has now imposed upon Mr. Lopez the duty to pay the full $8,130.50 awarded in sanctions. The enclosed wire instructions are provided to facilitate his full and timely discharge of that duty. The Petitioning Creditors would first steal and then paraphrase Admiral Lord Nelson's famous signal to his fleet as the Battle of Trafalgar was about to commence: *The United States Bankruptcy Court expects every man to do his duty!* The Petitioning Creditors hold the same expectation.[6]

This was intended to provide Lopez with advance warning that no delay in payment would be tolerated by the Petitioning Creditors.

- **November 26, 2007 to December 18, 2007** [Sanctions Deadline minus one day] – Lopez provides nothing but the *sounds of silence.*
- **December 19, 2007** [Sanctions Deadline]. Lopez, through counsel, communicates that he cannot pay the sanctions award and indicates that he can pay $4,000 plus $1,000 per month thereafter. However, Lopez tenders nothing[7].
- **December 20, 2007.** Petitioning Creditors, through counsel, responded to Lopez's counsel declining to acquiesce to any adjustment in the payment schedule imposed by the Sanctions Order. The reason for that position was specifically summarized as follows:

> "I do not now believe, nor have I ever since the date that I served you with the order and our bank wire instructions believed that your client lacked the financial ability to timely comply with the Court's order. I am informed and believe that my client has or has access to the evidence necessary to establish the validity of my belief. I say that so that your client has fair warning that should he be inclined to

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[5] *Id.* Transcript of Proceedings at page 18, lines 6-13.

[6] See Declaration of L. Scott Keehn, filled concurrently herewith at ¶ 3 and Exhibit 2.

[7] See Declaration of L. Scott Keehn at ¶ 5, Exhibit 3.

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> submit a declaration under penalty of perjury to the effect that he did not comply with the court's sanctions order because he lacked the financial ability to do so, he does so at his peril."[8]

- **December 20, 2007 through January 14, 2008.** Lopez makes no tender of any portion of the Sanctions and provides nothing other than the now familiar *sounds of silence*.[9]
- **January 15, 2007.** Lopez mails his opposition to the motion for terminating sanctions supported by his conclusory statement that he lacked the ability to comply with the Court's order.[10]

B. EVIDENCE OF AFFLUENCE

1. Lopez is currently employed by an entity known as Cargotel, pursuant to the terms of a "Cargotel Contractor Agreement" dated August 17, 2006.[11] Under the terms of the Cargotel Contractor Agreement Lopez is reimbursed his out-of-pocket expenses[12] and a daily fee of $400 per day up to "an annualized compensation level of $150,000".[13]

2. During the course of litigation pending against Lopez's wife, Madeleine J. Magill-Lopez, attorneys representing petitioning creditor Alan Stanly or one of his entities subpoenaed bank records from SunTrust Bank located in Orlando, Florida, and obtained monthly checking account statements for Madeleine Lopez for the seven month period from December 2006, through June 2007[14] (hereinafter the "Bank Records"). The Bank Records indicate that in the seven month period reflected by them, Madeleine and/or Francis Lopez caused deposits to be made to the account in the aggregate amount of $72,225.46[15]. That reflects:

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[8] See Declaration of L. Scott Keehn at ¶ 6, Exhibit 4.

[9] See Declaration of L. Scott Keehn at ¶ 4.

[10] See Docket Item 125 (Proof of Service).

[11] See Declaration of L. Scott Keehn at ¶ 7 and Exhibit 5 (partial Depo Transcript and Depo Exhibit 2).

[12] See LSK Declaration at Exhibit 5, Depo Exhibit p. 1.

[13] *Id.* Depo Exhibit 2 at p. 2-7.

[14] See Declaration of Timothy P. Dillon filed concurrently herewith at ¶3 and Exhibit 2.

[15] See Declaration of Cynthia K. Lay filed concurrently herewith at ¶¶8-10 and Exhibit 3.

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- An annualized total — $123,822.15[16];
- A monthly average — $10,317.92;
- Monthly excess over Mrs. Lopez's salary — $6,410.34;
- Family income which is 90.4% over the median for a Florida family of four[17]; and,
- Family income which is 80.3% over the median income of a "Two Earner Household" in the State of Florida[18].

III. DISCUSSION

A. Lopez Has Not Been Candid With the Court and His Claimed Inability to Pay the Sanctions Award is Disingenuous.

In his Declaration, Lopez claims: "I did not make the sanctions payment because I was unable to come up with the full amount of the sanctions in Mid-December."[19] Significantly, he fails to offer any evidence of why he was "unable to come up with" the money, and what efforts he actually made to do so. For example, Lopez never specifies what his income and expenses currently are, or were, at or around the 30-day time period from when the Court entered the sanctions Order (11/19/2007) through the payment deadline (12/18/2007).[20] But for the evidence garnered by Petitioning Creditors in other litigation, the Court would remain completely unaware of the $123,820 annual income available to the Lopez household.

Nor does Lopez explain why he never contacted Petitioning Creditors to advise of his efforts to obtain payment, and/or advise of his purported inability to pay.[21] This day of reckoning has been a long time coming. Lopez must have known long before December 19, 2007, that he "could not" pay the sanctions award (assuming that was the case). But, rather than prompt and

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[16] *Id.*

[17] See Lay Decl. at ¶¶ 2-4 and Exhibit 1 (Census Bureau Median Family Income by Family Size from U.S. Trustee website).

[18] *Id.* and Exhibit 2 (Median Income Data from U.S. Census website).

[19] See, Lopez's Opposition, page 5 (Declaration of Francis Lopez), lines 8 - 9.

[20] See, Docket Item 117.

[21] See Declaration of L. Scott Keehn filed concurrently herewith ("Keehn Decl."), ¶3.

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candid disclosure, he holds his cards close to his vest to maximize his perceived bargaining position.

Lopez's claimed inability to pay the sanctions award appears particularly disingenuous given the evidence of his and his wife's regular incomes. On or about August 17, 2006, Lopez entered into an employment contract with a corporation known as Cargotel, Inc. ("Cargotel") whereby he agreed to perform services for Cargotel in exchange for compensation in the amount of $400 per day, plus commissions of up to $150,000 per year.[22] As recently as August 13, 2007, Lopez declared that he was still working for Cargotel as its Vice President of Marketing,[23] and Petitioning Creditors have no reason to believe that his employment has terminated.

Lopez is not the sole source of financial support for he and his wife, Madeleine. Madeleine apparently earns a *net* salary of $3,907.58 per month from her job at Scripps Florida, which is automatically deposited into her checking account held at SunTrust bank.[24] Collectively, Lopez and his wife appear to be earning sufficient salaries to have allowed Lopez to raise the $8,130.50 within the 30-day period provided by the Court. Lopez has provided no evidence to the contrary.

Evidence garnered from discovery conducted in other litigation demonstrates that the Lopez household made deposits into his general checking account for the periods ending December 14, 2006 through June 15,2007, totaling $72,225.46.[25] That is an average of $10,317.92 per month, which is $6,410.34 per month in excess of the known net salary deposited by Mrs. Lopez in the amount of $3,907.58.[26] That income available for deposit of roughly

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[22] See, Keehn Decl., Exhibit A.

[23] Exhibit 1, to the Declaration of Timothy P. Dillon filed concurrently herewith ("Dillon Decl.").

[24] See, Dillon Decl., Exhibit 2.

[25] See Lay Decl. at ¶¶ 8-10 and Exhibit 3.

[26] See Dillon Decl. at ¶ 3 and Exhibit 2.

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$123,822.15 over the statewide median family income for a family of four in the state of Florida,[27] which is 90.4% over that median family income. The same figure would represent $55,135.15 over the U.S. Census Bureau's estimated median income for a "two-earner" household in the state of Florida,[28] which is 80.3% over the median income of a "two-earner" household in the state of Florida. In sum, the available evidence which the Petitioning Creditors have been able to garner strongly suggest that the Lopez Family household is anything but poverty-stricken despite the Lopez opposition declaration which concludes to the contrary. That evidence, coupled with Lopez's lack of disclosure, suggest his active intent to mislead the Court. That inference is bolstered in light of the fact that on December 20, 2007, his counsel was specifically warned that Petitioning Creditors had evidence to rebut the claim of poverty, and Lopez — at his peril — persisted in suggesting to the Court that he was unable to pay, while standing silent on the reality of the income available to his household.

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B. The Evidence Offered by Lopez in Support of His Opposition is Specious and Conclusory.

Despite the fact that the events that have led to this day of reckoning began in January of 2007, Lopez offers no explanation as to why, despite that period of warning, he was simply "unable to come up with the full amount of the sanctions in mid-December."[29] An honest litigant in Lopez's position would have submitted an evidentiary summary identifying: (a) all amounts of cash, balances of deposit accounts, and other liquid assets that were available on November 19, 2007; (b) all cash received by his household between November 19, 2007 and December 19, 2007, to demonstrate the total amount of cash available in that time period; and, (c) a detailed listing of all expenditures made between November 19, 2007 and December 19, 2007, by amount, nature and purpose, in order to establish his necessary expenses. With that evidence, the Court could determine for itself whether Lopez was really "unable" to make the payment as ordered, or had simply been rendered unable to do so by other spending decisions voluntarily made in the operative time-frame. Lopez has never proffered such evidence, either before or after his failure to comply with the Sanctions Order. Knowing what was at stake for the violation, his silence on the point strongly suggests both: (a) that the evidence would demonstrate the willful nature of his failure to pay the Sanctions Order, and (b) Lopez has a healthy respect for the penalties of perjury. At this point, the only effective way to redress Lopez's misconduct, is to grant the motion for terminating sanctions, and enter the Order for Relief forthwith.

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[27] Lay Decl. At ¶¶ 2-4 and Exhibit 1 ("Census Bureau Median Family Income by Family Size" from U.S. Trustee website), i.e., median income for family of four equals $65,024.

[28] *Id.* and Exhibit 2 (Median income data from U.S. Census website) which indicates that the median income for a two-earner household in the state of Florida is $68,687.

[29] Lopez Declaration ("Lopez Decl.") at ¶ 2.

C. The Lopez Bank Account Is Marital Property and Available to the Creditors of Both Francis and Madeleine Lopez

Florida is an *equitable distribution* State which is similar to a *community property* State such as California in that all property acquired during the marriage is presumptively "*marital property*," belonging equally to both spouses.[30] Upon dissolution, the marital property is typically distributed equally to each spouse, unless equitable considerations mandate a different distribution.[31] Here, since Francis and Madeleine Lopez have been married since before the couple fled to Florida, the monies deposited into Madeleine's SunTrust checking account presumptively constitute *marital property*, owned equally by, and for the benefit of, both Lopez and Madeleine.[32]

Under Florida law, the debts incurred by Lopez during his marriage to Madeleine constitute *marital liabilities* for which both spouses are presumptively equally responsible.[33] With these principles in mind it is clear that all of the monies deposited into the Lopez Account are marital assets which could have been used towards payment of the Sanctions Award. Those deposits reflect a robust stream of income available to satisfy the sanctions and Lopez has

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[30] See, Fla. Stat. §61.075(5)(a)(1).

[31] See, Fla. Stat. §61.075(1); *Karimi v. Karimi*, 867 So. 2d 471, 475 (Fla. 5th D.C.A. 2004).

[32] See, *Heinrich v. Heinrich*, 609 So. 2d 94, 95 - 96 (Fla. 3rd D.C.A. 1992) (if certain "assets were acquired during the course of the parties' marriage, they are presumptively marital assets").

[33] See, Fla. Stat. §61.075(5)(a)(1).

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advanced no evidence to show why it was not. Petitioning Creditors submit the Sanctions were not paid simply because Lopez chose to spend the money elsewhere rather than enduring the discomfort of having his lifestyle adversely impacted by the Sanctions Order.

D. Lopez Should Have Followed Appropriate Procedure to Obtain the Requested Relief from this Court's Order

If Lopez was truly incapable of complying with the Sanctions Order, then he should have at least complied with the Federal Rules of Civil Procedure ("FRCP"), and filed a motion for relief from the Order pursuant to FRCP 60(b)/FRBP 9024 which provides, in pertinent part:

> (b) Grounds for Relief from a Final Judgment, Order, or Proceeding. On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect. . . or (6) any other reason that justifies relief.

In choosing not to bring a motion for relief, Lopez has once again attempted to avoid his responsibilities as a litigant. As set forth above, he fails to specify what, if any, evidence exists to support his claimed inability to comply with the Order. He proffers nothing more than his own naked assertion that he was "*unable to come up with full amount.*" Obviously, that would be patently insufficient to meet the requisite showing of excusable neglect or other justification under FRCP 60(b), and it should likewise be rejected in the context of this Motion.

Lopez could have sought relief from the timing of the Sanctions Order if he had evidence to support his hollow contention that he was unable to pay within the time mandated by the court. No such motion was even sought. An even simpler form of relief could have been embodied in a simple motion for extension of time to satisfy the sanctions award for good cause. The fact that Lopez is represented by experienced and capable bankruptcy counsel, coupled with the fact that neither such motion for relief was requested strongly suggests that there were neither conceptual grounds or factual evidence that could be used to support such a request. If there were no grounds for filing timely motions for relief from the Sanctions Order, there are no grounds to oppose the request for the terminating sanctions which were a foreseeable result of the failure to fully and timely comply with the courts Sanctions Order.

///

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IV. CONCLUSION

The hearing on this motion will come one day prior to the first anniversary of the commencement of the sanctions odyssey. Along the way, this Court has bent over backwards to extend to Lopez every benefit of the doubt and reasonable opportunity to comply with his obligations of a litigant. Lopez appears to view that leniency with disdain.

When the Court finally awarded monetary sanctions, it clearly expressed the disturbing nature of Lopez's conduct and warned him plainly that failure to make full and timely payment of the sanctions awarded would create the risk of a terminating sanction. The Petitioning Creditors bolstered that warning by expressing, with equal clarity, that they would tolerate no delay in payment. But, the Court's threat of a terminating sanction has fallen on deaf ears as Lopez first ignores his duty to pay, then fails to seek any relief from the order imposed, and finally submits a declaration under penalty of perjury that is rendered materially misleading by the omission of critical income data that was obviously available to him. Simply put, Lopez has learned nothing from his experiences before this Court, and continues in his stubborn course of conduct that is tantamount to baiting the Court to actually impose a meaningful sanction.

At the same time, Lopez remains free to dilute the utility of this involuntary petition by creating new and unknowable involuntary gap claims that will advance ahead of those of the Petitioning Creditors and all other pre-petition creditors. Meanwhile, Lopez has advanced no authorities to rebut the applicability of the principles and authority cited against him in the moving papers, and relies entirely on his protestations of poverty and inability to comply. The evidence overwhelmingly suggests that his protestations are false. There is no reason why the ultimate sanction should not be imposed at this time.

For this and all of the foregoing reasons, the Court should grant the motion and issue a terminating sanction striking Lopez's answer to the petition and directing the entry of an order for relief.

Dated: January 22, 2008

KEEHN & ASSOCIATES
A Professional Corporation

By: //s// L. Scott Keehn
L. Scott Keehn, Attorneys for **Petitioning Creditors**

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DOCKET NUMBER 126-1

L. Scott Keehn, SBN 61691
Leslie F. Keehn, SBN 199153
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Attorneys for **Petitioning Creditors**

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UNITED STATES BANKRUPTCY COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

In Re: FRANCIS J. LOPEZ, Alleged Debtor.	Case No. 05-05926-PBINV **DECLARATION OF L. SCOTT KEEHN [BIFURCATED PHASE II]** Date: January 28, 2008 Time: 10:30 a.m. Judge: The Honorable Peter W. Bowie Ctrm: 4

I, L. SCOTT KEEHN, declare as follows:

1. I am an attorney at law, duly licenced to practice before all courts of this State, and before the United States District Court for the Southern District of California. I am a shareholder of the firm Keehn & Associates, APC, attorneys of record for Petitioning Creditors. I have personal knowledge of the factual matters stated herein.

2. Attached hereto as Exhibit 1 is a true copy of excerpts from the transcript of the Court's proceeding conducted in this case on November 19, 2007.

3. On November 26, 2007, I sent Mr. Hayes an e-mail to which I attached a copy of the lodged Sanctions Order, a Transmittal Memorandum, and wire instructions for the Firm's general account. The Transmittal Memorandum explained the Petitioning Creditors' expectation

of full and timely compliance with the Sanctions Order. A true copy of the e-mail and its attachments are attached hereto marked Exhibit 2 and incorporated herein by this reference.

4. As of the date of this Declaration, no portion of the $8,130.50 sanctions award (pursuant to this Court's Order dated 11/19/2007) has been paid, or tendered.

5. At no time during the 30-day time period from when the Court made the Sanctions Order (11/19/2007), through the payment deadline (12/18/2007), did Alleged Debtor Francis J. Lopez ("Lopez") or his attorney ever contact my office to discuss any aspect of the sanctions award other than the e-mail sent by Mr. Hayes on December 19, 2007 (the Sanctions Deadline), asserting for the first time Lopez's inability to pay and requesting a consensual variance from the relief requested. A copy of that e-mail is attached hereto as Exhibit 3. My office has never been provided with any specific facts pertaining to Lopez's efforts to pay the sanctions award, and/or the reasons for his purported inability to pay the full amount on or before December 18, 2007, as ordered by the Court.

6. On December 20, 2007, I promptly responded to Mr. Hayes' e-mail declining to acquiesce to any variance from the performance required by the Sanctions Order. Attached hereto marked Exhibit 4 and incorporated herein by this reference is a true, but redacted copy of that e-mail. The redacted portion of the e-mail embodies a compromise proposal which is redacted to preserve the privilege pursuant to Rule 408 of the Federal Rules of Evidence.

7. On October 22, 2007, I personally conducted the videotaped Deposition of Francis J. Lopez (the "Lopez Deposition") in San Diego, California. In the course of the Lopez Deposition, Lopez authenticated an employment contract entitled "Cargotel Contractor Agreement" as a true and correct copy of the employment agreement between him and Cargotel, Inc.[1] Lopez testified that he entered into the employment contract with Cargotel in August of 2006.[2] A true and correct copy of: (a) the relevant portions of the Lopez Deposition Transcript, and (b) the complete, executed copy of the Cargotel Contractor Agreement (Deposition Exhibit 2)

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---

1 See, Lopez Deposition transcript, page 20, lines 6 - 21.

2 See, Lopez Deposition transcript, page 21, lines 5 - 18.

is attached hereto as Exhibit 5.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct, and that this Declaration was executed this 22nd day of January, 2008, at San Diego, California.

//s// L. Scott Keehn
L. Scott Keehn

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EXHIBIT 1

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA

CHIEF JUDGE PETER W. BOWIE, PRESIDING

FRANCIS J. LOPEZ) CASE NO. 05-05926-PB

1) STATUS CONFERENCE ON INVOLUNTARY PETITION AND ANSWER

2) PETITIONING CREDITORS' MOTION FOR AN ENFORCEMENT ORDER IMPOSING MONETARY SANCTIONS AGAINST THE DEBTOR

REPORTER'S TRANSCRIPT OF PROCEEDINGS

SAN DIEGO, CALIFORNIA

MONDAY, NOVEMBER 19, 2007

SAN DIEGO BANKRUPTCY REPORTERS
BY: LYNETTE ALVES
P.O.BOX 496
SOLANA BEACH, CA 92075
(858) 336-8558

EXHIBIT 1
PAGE 1

CLAIMS, WE COULD HAVE BROUGHT THAT REQUEST IN GOOD -- IN EQUALLY GOOD FAITH; WE DIDN'T. BUT WE'RE ASKING FOR THE MONEY. WE THINK WE'RE ENTITLED TO THE MONEY. WE THINK THE COURT SHOULD AWARD IT; AWARD IT ALL; AND, MAKE IT PAYABLE FORTHWITH.

THE COURT: ALL RIGHT.

WELL, I'VE BEEN OVER IT MULTIPLE TIMES, AND I DO THINK IT'S TIME.

I HAVE TO SAY THAT I'M -- YOU KNOW, AS TROUBLED AS I'VE BEEN ALL ALONG IN THIS CASE AND MY DISTRESS HAS GROWN OVER THE INTERVENING PERIOD OF TIME, IN REVIEWING MR. LOPEZ'S OPPOSITION TO THIS PARTICULAR MOTION AND PARTICULARLY HIS EXPLANATION OF THE BUSINESS LEADING UP TO SEPTEMBER 11TH, REALLY, REALLY TROUBLES ME, FRANKLY.

AND IT TROUBLES ME IN ANOTHER PARTICULAR. MR. HAYES HAS SURMISED THAT THESE MOTIONS ARE REALLY AN EFFORT TO PIN MR. LOPEZ INTO A POSITION WHERE HE GETS SOME KIND OF TERMINATING SANCTION, IF YOU WILL, AGAINST HIM THAT ALLOWS A DETERMINATION, IN FACT, HE'S A DEBTOR; NOT AN ALLEGED DEBTOR; WHETHER IT'S BY STRIKING HIS RESPONSE IN OPPOSITION TO THE PETITION -- THE INVOLUNTARY PETITION -- OR IN SOME OTHER FORM. AND CERTAINLY THAT'S A THEORY WHICH WOULD NOT BE GROUNDLESS, ASSUMING THAT THAT'S MR. KEEHN'S THEORY. BUT THAT'S WHAT PUZZLES ME ALL THE MORE.

IF THERE'S ANY THOUGHT THAT THAT'S A POSSIBLE

THEORY, THEN WHY WOULDN'T YOU STEP UP AND SAY RIGHT OUT OF THE SHOOT, "SEPTEMBER 11TH ISN'T GOING TO WORK FOR ME." OR, "I NEED A DATE -- WE NEED TO JUGGLE A DATE. I'VE GOT THESE TWO OTHER BALLS UP IN THE AIR WITH MY GEORGIA AND MICHIGAN TRAVEL AND STUFF." AND, "I NEED TO NAIL THIS DOWN AND HAVE SOME COMMUNICATION THAT'S GOING TO THOSE ENDS."

AND PARTICULARLY WITH WHAT HAD PRECEDED IT. I JUST DON'T FIND ANY KIND -- ANY SEMBLANCE OF GOOD FAITH ON MR. LOPEZ'S PART IN RESPONDING TO THIS. I'M NOT CLEAR IN MY MIND WHETHER IT'S A MATTER OF HIS JUST NOT RECOGNIZING THE SIGNIFICANCE OF THIS MATTER TO HIM; NOT SETTING IT AS SOME KIND OF PRIORITY; HAVING SOME SENSE THAT IF HE'S NOT SERVED WITH A SUBPOENA HE'S A FREE AGENT. I HONESTLY DON'T KNOW WHAT IT IS.

BUT AT THIS POINT IN TIME, I THINK IT'S APPROPRIATE TO AWARD MONETARY SANCTIONS AGAINST MR. LOPEZ. THE ORIGINAL AMOUNT SOUGHT BEFORE THIS MOTION WAS $4,242. IN ADDITION, FUNDS ARE SOUGHT TO COMPENSATE FOR THE TIME EXPENDED IN PREPARING FOR THE DEPOSITION THOUGHT TO OCCUR ON SEPTEMBER 11TH IN THE AMOUNT OF $2,164.50; THERE WAS THE $224 FOR COMMUNICATING WITH MR. HAYES ABOUT THE NON-APPEARANCE OF MR. LOPEZ IN THERE; AND, THERE'S A SUM FOR PREPARING THE RENEWED MOTION, WHICH, FRANKLY, I THINK IS TOO HIGH. SO I'M ALLOWING $1,500 FOR PREPARING THE MOTION.

SO THAT'S AN AWARD TOTALING THE COMPONENTS OF $4,242; $2,164.50; $1,500 FOR PREPARING THE MOTION; AND, $224 FOR THE COMMUNICATION. AND WHEN YOU ADD THOSE UP THAT'S THE TOTAL MONETARY SANCTION I'M AWARDING AT THIS TIME. AND I'M STILL RESERVING ON THE DIFFERENCE.

BUT AT THIS POINT IN TIME, THOSE SUMS WILL BE REQUIRED TO BE PAID WITHIN THIRTY DAYS TO MR. KEEHN'S FIRM. AND YOUR CLIENT SHOULD BE MADE VERY AWARE, MR. HAYES, THAT IF HE FAILS TO PAY THAT TOTAL SUM WITHIN THIRTY DAYS OF TODAY'S DATE -- AND THAT'S TODAY'S DATE, NOT THE DATE OF ENTRY OF THE ORDER -- WITHIN THIRTY DAYS OF TODAY'S DATE, I WILL CONSIDER A TERMINATING SANCTION MOTION TO STRIKE HIS OPPOSITION TO THE PETITION. AND WE'LL TAKE IT FROM THERE.

MR. KEEHN: YOUR HONOR, COULD I ASK THE COURT TO GO OVER THE AWARD ONE MORE TIME?

THE COURT: SURE. $4,242 FROM YOUR ORIGINAL APPLICATION; $2,164.50 FOR THE 7.7 HOURS PREPARING FOR THE 9-11 DEPOSITION; $1,500 FOR PREPARING PRESENT MOTION; AND, THE $224 FOR THE TIME SPENT ON SEPTEMBER 10TH COMMUNICATING WITH MR. HAYES. THOSE ARE THE COMPONENTS.

MR. KEEHN: THANK YOU, YOUR HONOR.

THE COURT: ALL RIGHT.

NEW STATUS CONFERENCE DATE?

MR. KEEHN: WELL, YOUR HONOR, IT WOULD BE GOOD TO SET IT FOR A DATE THAT'S MORE THAN THIRTY DAYS BEYOND TODAY'S

EXHIBIT 2

L. Scott Keehn - Sanctions Order, Notice of Lodgement & TM

From: L. Scott Keehn
To: jhayes@polarisnet.net
Date: 11/26/2007 1:41 PM
Subject: Sanctions Order, Notice of Lodgement & TM
Attachments: Stanly112307TM&NOLSamcOrd.pdf

Jon,

Please see the attachments below, and let me know if you have any questions, comments or objections to the form of the order.

Best regards,
Scott

KEEHN
ASSOCIATES

This is an e-mail from Keehn & Associates, APC, Attorneys-at-Law. THE CONTENTS OF THIS E-MAIL ARE PRIVILEGED AND CONFIDENTIAL AND ARE INTENDED ONLY FOR THE USE OF THE ORDINARY USER OF THE E-MAIL ADDRESS TO WHICH IT WAS ADDRESSED. No one
else may copy or forward all or any of it in any form. Our postal address is 402 West Broadway, Suite 1210, San Diego, California 92101.

If you receive this e-mail in error, we would be obliged if you would contact the sender by reply email or telephone at (619) 400-2200 and destroy all copies of the original message.

EXHIBIT 2
PAGE 1

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A PROFESSIONAL CORPORATION
ATTORNEYS AND COUNSELORS AT LAW
www.keehnlaw.com

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PHONE: (619) 400-2200
FACSIMILE: (619) 400-2201

TRANSMITTAL MEMORANDUM
<Via First Class Mail>

DATE: November 26, 2007

TO: M. Jonathan Hayes, Esq.
Law Office of M. Jonathan Hayes
21800 Oxnard Street, Suite 840
Woodland Hills, CA 91367

FILE NUMBER: 5311.01

ENCLOSURES:

1. Notice of Lodgement of Orders: (1) Granting Petitioning Creditors' Motion for an Enforcement Order, Etc. and Imposing Specific Monetary Sanctions; (2) Setting Compliance Date for Payment of Sanctions; (3) Reserving Jurisdiction for Further Ruling on Balance of Sanctions Requested; And, (4) Continuing Status Conference

2. Wire Instructions to the Keehn & Associates, APC General Operating Account

REQUESTED ACTION: The court has now imposed upon Mr. Lopez the duty to pay the full $8,130.50 awarded in sanctions. The enclosed wire instructions are provided to facilitate his full and timely discharge of that duty. The Petitioning Creditors would first steal and then paraphrase Admiral Lord Nelson's famous signal to his fleet as the Battle of Trafalgar was about to commence: *The United States Bankruptcy Court expects every man to do his duty!* The Petitioning Creditors hold the same expectation.

Very truly yours,

KEEHN & ASSOCIATES, APC

By: [signature]
L. Scott Keehn

Enclosures
112257/5311.01

EXHIBIT 2
PAGE 2

WIRE TRANSFER INSTRUCTIONS

ACCT NAME:
KEEHN & ASSOCIATES, APC

ABA NUMBER:
122232109

ACCT NUMBER:
2070227641

BANK ADDRESS:
CALIFORNIA BANK AND TRUST
SAN DIEGO B STREET OFFICE
525 B STREET
SAN DIEGO, CA 92101
(800) 400-6080

112258/5311.01

L. Scott Keehn (SBN 61691)
KEEHN & ASSOCIATES, APC
402 W. Broadway, Suite 1210
San Diego, California 92101
Telephone: (619) 400-2200
Facsimile: (619) 400-2201

Attorneys for Petitioning Creditors

UNITED STATES BANKRUPTCY COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

In Re: FRANCIS J. LOPEZ, Debtor.	**Bankruptcy Case No. 05-05926-PB7** **NOTICE OF LODGEMENT OF ORDERS:** **(1) GRANTING PETITIONING CREDITORS' MOTION FOR AN ENFORCEMENT ORDER, ETC. AND IMPOSING SPECIFIC MONETARY SANCTIONS;** **(2) SETTING COMPLIANCE DATE FOR PAYMENT OF SANCTIONS;** **(3) RESERVING JURISDICTION FOR FURTHER RULING ON BALANCE OF SANCTIONS REQUESTED; AND,** **(4) CONTINUING STATUS CONFERENCE** Date: November 19, 2007 Time: 2:00 p.m. Dept: 4 Judge: Hon. Peter W. Bowie

NOTICE IS HEREBY GIVEN that pursuant to Rule 7054-3(b) of the Local Rules of the United States Bankruptcy Court for the Southern District of California ("LBR"), the original of the "ORDERS: (1) GRANTING PETITIONING CREDITORS' MOTION FOR AN ENFORCEMENT ORDER, ETC. AND IMPOSING SPECIFIC MONETARY .

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SANCTIONS; (2) SETTING COMPLIANCE DATE FOR PAYMENT OF SANCTIONS; (3) RESERVING JURISDICTION FOR FURTHER RULING ON BALANCE OF SANCTIONS REQUESTED; AND, (4) CONTINUING STATUS CONFERENCE," a copy of which is attached hereto marked "Exhibit 1" and incorporated herein by this reference, was lodged with the Bankruptcy Court for signature by the Honorable Peter W. Bowie on November 26, 2007.

Pursuant to LBR 7054-3(b)(1), you are advised that you have five (5) business days within which to file and serve, pursuant to LBR 7054-3(b)(3), any objections to the form and/or the substance of the pleadings, and/or serve upon the undersigned alternate pleadings if desired.

Dated: November 26, 2007

KEEHN & ASSOCIATES,
A Professional Corporation

By: //s// L. Scott Keehn
L. Scott Keehn

KEEHN & ASSOCIATES, APC
ATTORNEYS AND COUNSELORS AT LAW
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EXHIBIT 1

CSD 1001C (11/15/04)

Name, Address, Telephone No. & I.D. No.
L. Scott Keehn, SBN 61691
Leslie F. Keehn, SBN 199153
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Telephone: (619) 400-2200

Attorneys for Petitioning Creditors

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA
325 West "F" Street, San Diego, California 92101-6991

In Re

FRANCIS J. LOPEZ,

Debtor.

LODGED

BANKRUPTCY NO. 05-05926-PBINV

Date of Hearing: November 19, 2007
Time of Hearing: 2:00 p.m.
Name of Judge: Hon. Peter W. Bowie

ORDERS:
(1) GRANTING PETITIONING CREDITORS' MOTION FOR AN ENFORCEMENT ORDER, ETC. AND IMPOSING SPECIFIC MONETARY SANCTIONS; (2) SETTING COMPLIANCE DATE FOR PAYMENT OF SANCTIONS; (3) RESERVING JURISDICTION FOR FURTHER RULING ON BALANCE OF SANCTIONS REQUESTED; AND, (4) CONTINUING STATUS CONFERENCE

IT IS ORDERED THAT the relief sought as set forth on the continuation pages attached and numbered two (2) through 2 with exhibits, if any, for a total of 2 pages, is granted. Motion Docket Entry No. 114 .

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DATED:

Judge, United States Bankruptcy Court

Signature by the attorney constitutes a certification under Fed. R. of Bankr. P. 9011 that the relief in the order is the relief granted by the court.

Submitted by:
KEEHN & ASSOCIATES, APC
(Firm name)

By: L. Scott Keehn
Attorney for [X] Movant [ ] Respondent

EXHIBIT 2
PAGE 7

ORDERS: (1) GRANTING PETITIONING CREDITORS' MOTION FOR AN ENFORCEMENT ORDER, ETC. AND IMPOSING SPECIFIC MONETARY SANCTIONS; (2) SETTING COMPLIANCE DATE FOR PAYMENT OF SANCTIONS; (3) RESERVING JURISDICTION FOR FURTHER RULING ON BALANCE OF SANCTIONS REQUESTED; AND, (4) CONTINUING STATUS CONFERENCE

ALLEGED DEBTOR: FRANCIS J. LOPEZ CASE NO: 05-05926-PBINV

Petitioning Creditors' "Motion for an Enforcement Order Imposing Sanctions etc." against Alleged Debtor Francis J. Lopez (the "Motion") came on regularly for hearing on November 19, 2007, at 2:00 p.m. in Department 4 of the above-entitled Court located at 325 West "F" Street, San Diego, California, the Honorable Peter W. Bowie presiding. Appearances were made by the firm of Keehn & Associates, APC, by L. Scott Keehn, on behalf of Petitioning Creditors; and the Law Office of M. Jonathan Hayes, by M. Jonathan Hayes on behalf of Alleged Debtor, Francis J. Lopez ("Lopez"), in opposition to the Motion.

The Court, having previously considered all of the pleadings, papers, requests, declarations and arguments submitted by the parties in support of their positions, and, good cause therefore appearing,

IT IS HEREBY ORDERED that:

(1) The Motion is Granted, and the court hereby awards sanctions against alleged debtor Francis J. Lopez in the amount of $8,130.50 (the "Sanctions");

(2) Lopez shall pay the Sanctions, or cause them to be paid, to the law firm of Keehn & Associates, APC on or before December 19, 2007; and, in the event that the Sanctions are not paid by that date, the court will entertain and consider imposing a terminating sanction as a further enforcement remedy;

(3) The Court specifically reserves jurisdiction for, and deferred its ruling on, the balance of the monetary sanctions requested by the Motion, but which were not awarded at this time (i.e., the sum of $4,300); and,

(4) The Status Conference on this matter will continued to January 7, 2008, at 9:30 a.m. in Department 4 of the above entitled court.

L. Scott Keehn, SBN 61691
Leslie F. Keehn, SBN 199153
KEEHN & ASSOCIATES
A Professional Corporation
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San Diego, California 92101
Telephone: (619) 400-2200

Attorneys for **Petitioning Creditors**

UNITED STATES BANKRUPTCY COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

In Re: FRANCIS J. LOPEZ, Alleged Debtor.	Case No. 05-05926-PBINV Involuntary Chapter 7 **PROOF OF SERVICE** Judge: The Honorable Peter W. Bowie Ctrm: 4

KEEHN & ASSOCIATES, APC
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402 WEST BROADWAY, SUITE 1210
SAN DIEGO, CALIFORNIA 92101
TELEPHONE (619) 400-2200 · FACSIMILE (619) 400-2201

I, the undersigned, declare that I am over the age of eighteen years and not a party to this cause. I am employed in, or am a resident of, the County of San Diego, California, and my business address is: 402 West Broadway, Suite 1210, San Diego, California.

On the date shown below, I caused to be served the following document(s):

NOTICE OF LODGEMENT OF ORDERS: (1) GRANTING PETITIONING CREDITORS' MOTION FOR AN ENFORCEMENT ORDER, ETC. AND IMPOSING SPECIFIC MONETARY SANCTIONS; (2) SETTING COMPLIANCE DATE FOR PAYMENT OF SANCTIONS; (3) RESERVING JURISDICTION FOR FURTHER RULING ON BALANCE OF SANCTIONS REQUESTED; AND, (4) CONTINUING STATUS CONFERENCE

[ ] BY PERSONAL SERVICE: I placed a true copy of the above document(s) in a sealed envelope clearly labeled to identify the attorney for the party being served, and personally

caused said such envelope to be personally delivered on each addressee named hereafter:

[ ] BY FACSIMILE AND MAIL: I declare that upon the prior agreement of the party being served, I served the above named documents by facsimile transmission during usual office hours from facsimile number 619-400-2201, to a facsimile machine maintained by the person on whom it is served and that the transmission was reported as complete and without error. Thereafter, I mailed (by first-class mail, postage prepaid) a true copy to each addressee named hereafter:

[✔] BY MAIL: I declare that I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service, that the correspondence shall be deposited with the United States Postal Service this same day in the ordinary course of business; and that a true copy was placed in a separate envelope, with postage thereon fully prepaid for each addressee named hereafter:

M. Jonathan Hayes
Law Office of M. Jonathan Hayes
21800 Oxnard Street, Suite 840
Woodland Hills, CA 91367

[ ] BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a true copy of the above-named document(s) to be sent to the person(s) at the e-mail addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful:

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on November 26, 2007.

/s/ Jeanine M. Bourcier
JEANINE M. BOURCIER

KEEHN & ASSOCIATES, APC
ATTORNEYS AND COUNSELORS AT LAW
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EXHIBIT 3

L. Scott Keehn - Francis Lopez Sanctions

From: "M. Jonathan Hayes" <jhayes@polarisnet.net>
To: "L. Scott Keehn" <scottk@keehnlaw.com>
Date: 12/19/2007 11:04 AM
Subject: Francis Lopez Sanctions

Mr. Keehn,

My client does not have the $8,100 in sanction to pay now. He can pay you $4,000 now and $1,000 per month until paid. Let me know if that will work.

Thanks, Jon Hayes

M. Jonathan Hayes
jhayes@polarisnet.net
21800 Oxnard St. Suite 840
Woodland Hills, CA 91367
(818) 710-3656
(818) 710-3659 fax
(818) 402-7537 cell
www.lawprofessorblogs.com
If you have received this message in error, please call (818) 710-3656
and notify me of that fact and destroy all copies of this message."
Thank you.

EXHIBIT 3
PAGE 1

EXHIBIT 4

L. Scott Keehn - Re: Francis Lopez Sanctions

From: L. Scott Keehn
To: Hayes, M. Jonathan
Date: 12/20/2007 6:08 PM
Subject: Re: Francis Lopez Sanctions

Jon,

I have been in deposition all day yesterday, a hearing in Indio this morning and in Department 2 this afternoon, so I have only this moment seen your email. I apologize for the delay.

Turning to your inquiry itself, the answer is "no". I do not now believe, nor have I ever since the date that I served you with the order and our bank wire instructions believed that your client lacked the financial ability to timely comply with the Court's order. I am informed and believe that my client has or has access to the evidence necessary to establish the validity of my belief. I say that so that your client has fair warning that should he be inclined to submit a declaration under penalty of perjury to the effect that he did not comply with the court's sanctions order because he lacked the financial ability to do so, he does so at his peril.

[redacted]

Please let me know if you have any questions or comments. Meanwhile I hope that you and your family enjoy an extremely pleasant holiday season, and begin the new year fully refreshed.

Best regards,
Scott

KEEHN ASSOCIATES

This is an e-mail from Keehn & Associates, APC, Attorneys-at-Law. THE CONTENTS OF THIS E-MAIL ARE PRIVILEGED AND CONFIDENTIAL AND ARE INTENDED ONLY FOR THE USE OF THE ORDINARY USER OF THE E-MAIL ADDRESS TO WHICH IT WAS ADDRESSED. No one else may copy or forward all or any of it in any form. Our postal address is 402 West Broadway, Suite 1210, San Diego, California 92101.

If you receive this e-mail in error, we would be obliged if you would contact the sender by reply email or telephone at (619) 400-2200 and destroy all copies of the original message.

>>> "M. Jonathan Hayes" <jhayes@polarisnet.net> 12/19/2007 11:05 AM >>>
Mr. Keehn,

My client does not have the $8,100 in sanction to pay now. He can pay you $4,000 now and $1,000 per month until paid. Let me know if that will work.

Thanks, Jon Hayes

M. Jonathan Hayes
jhayes@polarisnet.net
21800 Oxnard St. Suite 840
Woodland Hills, CA 91367
(818) 710-3656
(818) 710-3659 fax
(818) 402-7537 cell
www.lawprofessorblogs.com

If you have received this message in error, please call (818) 710-3656 and notify me of that fact and destroy all copies of this message."
Thank you.

EXHIBIT 5

Original

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA

In Re:) Case No. 05-0596-PBINV

FRANCIS J. LOPEZ,)

Alleged Debtor.)

)

VIDEOTAPED DEPOSITION OF FRANCIS J. LOPEZ

San Diego, California

October 22, 2007

REPORTED BY HEIDI J. JOHNSON, RPR, CSR NO. 12525

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA

In Re:) Case No. 05-0596-PBINV

FRANCIS J. LOPEZ,)

Alleged Debtor.)

)

VIDEOTAPED DEPOSITION OF FRANCIS J. LOPEZ, taken on behalf of the Petitioning Creditors at 402 West Broadway, Suite 1210, San Diego, California, on Monday, October 22, 2007, at 9:58 a.m., before Heidi J. Johnson, RPR, CSR No. 12525, a Certified Shorthand Reporter in the State of California.

APPEARANCES:

FOR THE PETITIONING CREDITORS:

KEEHN & ASSOCIATES, APC
BY: L. SCOTT KEEHN, ESQ.
402 West Broadway, Suite 1210
San Diego, California 92101
(619)400-2200

ALSO PRESENT:

ABEL SIBREL, VIDEOGRAPHER
ALAN STANLY (APPEARING TELEPHONICALLY)

A CargoTel is a company that provides software to the automotive logistics industry. 10:12 10:12

MR. KEEHN: We'll mark that. 10:12

(Exhibit 2 was marked.) 10:12

BY MR. KEEHN: 10:12

Q Okay. I'm going to hand you a document that's been marked as Exhibit 2 to the deposition. Ask you if you recognize that document. 10:12 10:12 10:12

A I do. 10:12

Q Okay. Can you describe for the record what it is? 10:12 10:12

A It's a contractor agreement that is between myself and CargoTel, C-a-r-g-o-T-e-l. 10:12 10:12

Q Okay. 10:12

A And it's -- it was signed in 2006, August of 2006. 10:13 10:13

Q You're looking at the last page? 10:13

A Yes. 10:13

Q Okay. So that is your signature where it says, "Contractor Signature and Date"? 10:13 10:13

A Yes, it is. 10:13

Q And it was signed on or about August 17, 2006? 10:13 10:13

A Yes -- well, this says August 15. 10:13

Q I'm looking on the last page. 10:13

Will you join me in that? 10:13
A You're looking on the last page of the exhibit? 10:13 10:13
Q I see. 10:13
A I'm looking at the last page of the contract. 10:13
Q Yeah, right. 10:13
A So go two pages in. 10:13
Q All right. So that's your signature on the contractor name and date there as well? 10:13 10:13
A Yes. 10:13
Q And August 15, 2006, is the time -- approximately the date it was executed? 10:13 10:13
A Yes. 10:13
Q And, again, on the last page -- that's the exhibit -- that is your signature? 10:13 10:13
A Yes, it is. 10:13
Q Executed on or about August 17? 10:13
A Correct. 10:13
Q Do you have any explanation as to why there's a two-day gap between the execution of the agreement and the exhibit? 10:13 10:14 10:14
A I do not. 10:14
Q Okay. 10:14
A Could be a number of things. 10:14
Q What do you think it could be? 10:14

A It could be simply that the contractor agreement was signed, and the exhibit was finalized two days later. 10:14 10:14 10:14

Q Okay. Do you have any recollection as to whether or not that's the case as to what happened? 10:14 10:14

A Not any specific recollection, no. 10:14

Q Do you have any general recollection? 10:14

A No. 10:14

Q All right. Let's turn to the first page of Exhibit 2. There are some handwritten items in there. The word "twice" appears to be inserted. The word "period" -- both in paragraph 3. 10:14 10:14 10:14 10:14

Do you see that? 10:14

A I do. 10:14

Q Is that your handwriting? 10:14

A Yes. 10:14

Q Are those your initials to the -- to the right of that? 10:14 10:14

A Yes, they are. 10:14

Q Okay. And moving in to the third page of Exhibit 2, the second paragraph of Section 5 is crossed out. 10:14 10:14 10:15

Do you see that? 10:15

A I do. 10:15

Q Okay. Is one of -- are one of those initials 10:15

yours? 10:15
A Yes. 10:15
Q Did you have any relationship with CargoTel prior to August of 2006 by which you were entitled to receive money? 10:15 10:15 10:15
A No. 10:15
Q So what we see as Exhibit No. 2 is your first contractual relationship with CargoTel? 10:15 10:15
A That's correct. 10:15
Q Are you still a contractor for CargoTel? 10:15
A Yes. 10:15
Q Under the terms of the agreement that we have as Exhibit 2? 10:15 10:15
A Yes. 10:15
Q How are you compensated by CargoTel? 10:15
A Can I ask you a question, Mr. Keehn? 10:15
Q No. I get to ask the questions, actually. 10:15
A Well, I'm just wondering what the relevance is for this in the context of the deposition of a bankruptcy case, particularly as it applies to paying debts as they become due. 10:15 10:15 10:15 10:16
Q Are you objecting to the question? 10:16
A I'm asking you. 10:16
Q No. I don't answer the questions. I ask them. 10:16 10:16

A Well -- 10:16
Q If you -- if you want to object to the question, your objection will be noted, and then you're entitled to answer the question. 10:16
A Okay. That is my objection. 10:16
Q Okay. You may answer, sir. 10:16
A Okay. Can you repeat the question? 10:16
Q No, I can't. I never do it twice the same -- the same way twice. 10:16
A Okay. 10:16
Q So I'll ask the reporter to read it back. 10:16
(The following question was read back: 10:16
"Q How are you compensated by CargoTel?") 10:16
THE WITNESS: My compensation consists of a daily rate, which is specified in the contractor agreement, plus additional bonuses that may come up as a result of this agreement. 10:16
BY MR. KEEHN: 10:16
Q Okay. But if I read the four corners of the agreement, I would be able to see in there all of the forms of compensation that you have from CargoTel; is that correct, sir? 10:17
A That is correct. 10:17
Q Okay. Was there any signing bonus associated with this contract? 10:17

A There was not. 10:17

Q Did you ever receive any form of payment whatsoever from CargoTel at any time prior to August of 2006? 10:17 10:17 10:17

A I do not believe so. 10:17

Q Okay. Do you know what kind of an entity CargoTel is? 10:17 10:17

A Entity in terms of what? 10:17

Q When I say "entity," I mean a form of business, other than a proprietorship. It could be a corporation, a partnership, a limited partnership, a limited liability company, a business trust. 10:17 10:17 10:17 10:17

A As far as I know, it is a corporation. 10:17

Q Okay. Do you have any understanding as to what its state of incorporation is? 10:17 10:18

A I am not positive, but I believe it's either in Maryland or Delaware. 10:18 10:18

Q Do you receive any royalties from CargoTel for your source code? 10:18 10:18

A Absolutely not. 10:18

Q All right. Now, other than the Noveon royalties that you've already testified to, have you ever received from any entity royalties for your source code? 10:18 10:18 10:18 10:18

A No. 10:18

CARGOTEL CONTRACTOR AGREEMENT

Definitions:

1. "Services" means the tasks to be performed by Contractor, as more fully described in Exhibit A.

Scope of Services:

1. **Retention.** CargoTel hereby retains Contractor to perform the Services, and Contractor hereby accepts such retention. Contractor shall report to the CargoTel "President" identified in Exhibit A.
2. **Services.** Contractor shall perform the Services to the best of Contractor's ability and in a professional manner. Contractor acknowledges that time is of the essence in performing the Services.
3. **Interim Review.** During the term of this Agreement, CargoTel may review the progress of the Services, and take such actions as it deems reasonable based on such review.
4. **Changes.** CargoTel may, from time to time, request changes in the Services. If the request substantially alters the nature of the Services, Contractor shall, within seven (7) days thereafter, submit to CargoTel a proposal of changes in cost and schedule. Such changes may be authorized by an Amendment to Exhibit A assigned by the President and Contractor, and Contractor shall promptly effect such changes.
5. **CargoTel Facilities.** CargoTel may, at its discretion, provide Contractor with reasonable use of its facilities as required for Contractor to perform the Services; in which event Contractor agrees to abide by CargoTel's rules and policies, including but not limited to those relating to security and confidential information. Contractor shall sign in and out using the visitor's log book when on site at CargoTel. If Contractor is provided access to any CargoTel computer network, Contractor's use of thereof shall be solely in direct furtherance of Contractor's performance of this Agreement. Contractor shall not remove any property of CargoTel without CargoTel's prior written consent.

PAYMENT:

1. **Compensation.** As full compensation and consideration for the Services and other obligations of Contractor set forth in this Agreement, CargoTel will pay Contractor the Fees in accordance with the schedule on Exhibit A when properly invoiced for accepted Services.
2. **Expenses.** Any expenses incurred by Contractor in connection with providing the Services will be the sole responsibility of Contractor unless otherwise approved in writing by an authorized CargoTel representative prior to Contractor incurring such expense. If expense reimbursement is agreed to by CargoTel, expenses shall be billed at Contractor's actual out-of-pocket cost, with no surcharge, and Contractor shall endeavor to avoid unnecessary expenditures.
3. **Invoice Requirements.** Contractor shall invoice CargoTel ^twice each month for the Services performed, and any approved expenses incurred, in the immediately preceding ~~month~~ period (the "Invoice Period"). Contractor shall include with each invoice:
   - Purchase order (P.O.) number;
   - A statement of the work performed;
   - Receipts or other documentation supporting reimbursable expenses approved by CargoTel;
   - Taxpayer identification number;
   - Such additional information as is reasonably requested by CargoTel, Inc.

4. **Taxes.** Contractor shall be responsible for payment of all taxes and other assessments by any government upon the transactions contemplated by this Agreement, other than taxes CargoTel's income.

EXHIBIT 2 1 of 7
Lopez
10/22/07 HJ
PENGAD 800-631-6989

RELATIONSHIP OF THE PARTIES:

1. **Personal Agreement.** Contractor agrees to provide the Services personally to CargoTel, and CargoTel is relying on Contractor's expertise in performing the Services. Contractor may not assign, delegate, or subcontract any of the Services without the prior written approval of an authorized CargoTel representative.
2. **Independent Contractor.** Contractor is an independent contractor in the performance of the Services and is not an employee, agent, joint venture, partner, or franchisee of CargoTel. Contractor shall not be entitled to participate in any plans, arrangements, or distributions pertaining to any employee benefits made available to CargoTel's employees. CargoTel shall take no deduction from any amounts paid to Contractor whether for taxes or otherwise. Except to the extent otherwise required by law, Contractor shall report as income all amount received hereunder, file all forms, and pay all taxes that may be required by virtue of Contractor's status as an independent contractor. Nothing in this Agreement or its performance shall imply a joint venture or principal and agent relationship between the parties. Contractor shall indemnify and hold harmless CargoTel from any obligation to pay any taxes or fees, including but not limited to sales or withholding taxes, social security, workers' compensation, unemployment or disability insurance, or similar charges, including any interest or penalties thereon, in connection with any payments made Contractor hereunder.
3. **No Continuation of Service.** Nothing in this Agreement shall confer upon Contractor any right to continue to render services to CargoTel or to become employed by CargoTel, and CargoTel reserves all rights to terminate Contractor's services in accordance with the provisions of this Agreement.

CONFIDENTIALITY; COMPETITION; OWNERSHIP:

1. **Confidentiality.** Contractor agrees to keep confidential and not to disclose or make any unauthorized use of any trade secrets, confidential information, knowledge, data, or other information of CargoTel relating to products, processes, software, know-how, designs, formulas, test data, customer lists, business plans, marketing plans and strategies, and pricing strategies or other subject matter pertaining to any business of CargoTel or any of CargoTel's clients, customers, contractors, licensees or affiliates or information received in confidence from other third parties, which Contractor may have produced, obtained, learned or otherwise acquired during the course of rendering services to CargoTel (including, but not limited to, the Services) (collectively, "Confidential Information"). Contractor's duty to maintain such Confidential Information in confidence hereunder shall survive the termination of this Agreement for a period of three (3) years, except to the extent that any such Confidential Information becomes generally known in the industry through no direct or indirect fault of Contractor.
2. **Other Obligations.** Contractor acknowledges that CargoTel from time to time may have agreements with third parties which impose obligations or restrictions on CargoTel regarding inventions or creative works made during the course of work thereunder or regarding the confidential nature of such work. Contractor agrees to be bound by all such obligations and restrictions of which Contractor is informed, and to take all action necessary to discharge the obligations of CargoTel thereunder upon notice of same from CargoTel.
3. **Competition.** Contractor acknowledges that it will be exposed to certain of CargoTel's sensitive and confidential business information. Contractor may not use Confidential Information except for the benefit of CargoTel in accordance with this Agreement. Therefore, during the term of this Agreement, Contractor shall not perform services for any person which CargoTel reasonably deems to be a competitor of CargoTel, unless such services are wholly unrelated to the Services or Contractor first obtains CargoTel's written consent.
4. **Ownership.** Contractor acknowledges that any information Contractor may receive from CargoTel or is generated by Contractor as a result of the Services is the sole property of CargoTel, except to the extent information was already known, independently developed, or rightfully received from a third party by Contractor, or was generally know to the public. Contractor shall assign, and hereby does assign, such ownership and any rights of reproduction to CargoTel. Contractor further agrees to execute such documents of

2-2

assignment or take such other action as CargoTel may reasonably request to evidence, perfect, or effect the transfer, recordation, or protection of such deliverables.

5. **Non-Compete.** Contractor agrees that it will be a significant member of CargoTel and CargoTel is engaged business in each of the fifty states of the United States. Contractor therefore agrees that during contract period with CargoTel it will not engage in any other employment or related activity that is in competition with CargoTel unless it receives CargoTel's prior written approval from the President to hold such outside employment or engage in such business or activity. Such written approval will not be unreasonably withheld if such outside employment, business or activity would not in any way be competitive with the business or proposed business of CargoTel or otherwise conflict with or adversely affect in any way your performance of your contract obligations to CargoTel.

   Commencing on Employment Date and continuing until the twenty-four (24) months after you depart from CargoTel, you will not, as an employee, agent, consultant, adviser, independent contractor, general partner, officer, director, stockholder, investor, lender or corporation, partnership or other entity, or in any other capacity directly or indirectly: engage in any business which is competitive and substantially similar to the CargoTel's business or permit your name to be used in connection with a business which is competitive and substantially similar to the CargoTel's business; or induce or attempt to induce any person who at the time of such inducement is an employee of CargoTel to perform work or services for any other person or entity other than CargoTel. Notwithstanding the foregoing, you may own, directly or indirectly, solely up to one percent (1%) of any class of "publicly traded securities" of any person or entity which owns a business that is competitive or substantially similar to that of CargoTel.

   If any restriction set forth in this non-competition section is found by a Court to be unreasonable, then you agree, and hereby submit, to the reduction and limitation of such prohibition to such area or period as shall be deemed reasonable. You acknowledge that the services that you will provide to CargoTel under this agreement are unique and that irreparable harm will be suffered by CargoTel in the event of the breach by you of any of your obligations under this agreement.

WARRANTIES:

1. **Warranties by Contractor.** Contractor represents and warrants to CargoTel as follows: (a) Contractor has the expertise, experience, and knowledge to perform the Services; (b) Contractor is under no obligation which prevents Contractor from, and Contractor is not otherwise prohibited from, performing the Services; (c) Contractor has the right to disclose or use all ideas, processes, designs, data and other information which Contractor has gained from third parties, and which Contractor discloses or uses in the performance of this Agreement; (d) Contractor shall promptly disclose to CargoTel all actual or potential financial relationships or conflicts of interest Contractor may have with respect to, or resulting from, any recommendations or advice given by Contractor to CargoTel; and (e) the Services will comply with the material requirements of this Agreement. Contractor acknowledges that the warranties contained in this Agreement are in addition to any other applicable warranties, express or implied, arising under statute, law, or otherwise.

INSURANCE, PERMITS, COMPLIANCE WITH LAWS:

1. **Insurance.** Contractor shall carry adequate policies of insurance to protect CargoTel from liability for Contractor's activities under this Agreement, including but not limited to workers' compensation insurance, state disability insurance, general liability insurance and such other insurance as CargoTel may reasonably request. Contractor will furnish to CargoTel a certificate evidencing such coverage upon CargoTel's request.
2. **Permits.** Contractor shall acquire and maintain in good standing, and as its sole expense, all permits and licenses required of it by law in the performance of Service under this Agreement.
3. **Compliance with Laws.** Contractor will perform the Services in accordance with all applicable laws.

TERMS AND TERMINATION:

1. **Term.** This Agreement shall commence on the Effective Date and shall continue through the "Expiration Date" set forth on *Exhibit A*, unless earlier terminated in accordance with the provisions of this Article 8 or upon the mutual agreement of the parties.
2. **Termination Without Cause.** CargoTel may terminate this Agreement for convenience by delivering written notice to Contractor at least fourteen (14) days before the desired termination date; at CargoTel's request, Contractor shall continue to perform the Services during the fourteen (14) day period. Contractor may terminate this Agreement for convenience by delivering written notice to CargoTel at least twenty-eight (28) days before the desired termination date.
3. **Termination for Breach.** If either party defaults in the performance of any material provision of this Agreement, the nondefaulting party may terminate this Agreement upon notice thereof. Contractor's failure to perform the Services in a manner reasonably satisfactory to CargoTel and in accordance with the provisions of *Scope of Services, item 2, Services*, shall constitute a default for purposes of this *Term and Termination, item 8.3, Termination for Breach.*
4. **Phase-Out.** In the event either party provides notice of termination, Contractor agrees to cooperate with CargoTel to continue the work and effect a smooth transition of the Services and Deliverables to CargoTel or its designee in a professional manner reasonably acceptable to CargoTel.
5. **Payment Following Termination.** In the event of early termination of this Agreement for any reason, Contractor shall be entitled to receive payment only for work actually performed in accordance with the Services identified on Exhibit A and any permitted expenses. CargoTel may withhold a reasonable amount to compensate it for any estimated damages in the event CargoTel terminates this Agreement as a consequences of Contractor's breach of this Agreement or if Contractor fails to comply with Contractor's obligations under *Confidentiality; Competition; Ownership Section, item 1 Confidentiality and item 3 Competion,* and *Terms and Termination Section, item 6, Return of CargoTel Property.*
6. **Return of CargoTel Property.** Upon termination of this Agreement for any reason, Contractor shall deliver to CargoTel, within seven (7) days after the date of expiration or earlier termination: (1) any property of CargoTel in the possession or control of Contractor; (2) any data of any nature pertaining to or incorporating any Confidential Information of CargoTel, including any copies thereof; (3) the originals and all copies Deliverables, whether finished, prepared or produced by Contractor for CargoTel pursuant to this Agreement; and (4) such documentation as may be necessary to evidence the results of the Services and the progress of Contractor in the performance of the Services.
7. **Termination Obligations.** The provisions of Article 4, 5, 6, and 7 shall survive any termination or expiration of this Agreement.

INDEMNIFICATION:

1. **General.** Contractor shall defend, indemnify, and hold harmless CargoTel, its officers, directors, partners, employees, agents, affiliates, and attorneys from and against any loss or damage, or claims or actions brought by third parties, and from any and all direct and consequential resulting damages, losses, expenses, including reasonable attorney's fees and costs of litigation, arising out of or resulting from the performance of the Services to the extent caused by the negligence or willful misconduct of Contractor or any of Contractor's employees, agents, or subcontractors.

MISCELLANEOUS:

1. **Notices.** Any notice, demand, request or other communications hereunder shall be in writing and shall be deemed sufficient when delivered as follows: if to CargoTel, at CargoTel's principal place of business set forth above, Attention: President (as identified on Exhibit A), cc: Chief Counsel; and if to Contractor, at Contractor's address as set forth on *Exhibit A*, unless another address shall have been designated in the manner provided for in this *Miscellaneous Section, item 1, Notices.*
2. **Successors and Assigns.** The rights and benefits of this Agreement shall inure to the

2-4

benefit of and be enforceable by each party's permitted successors and assigns. The obligations of Contractor under this Agreement may only be assigned with the prior written consent of CargoTel.

3. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Maryland, without regard to the choice of law rules of any jurisdiction. Any action to enforce the provisions of this Agreement shall be brought in a court of competent jurisdiction in Baltimore, Maryland.
4. **Severability.** If any provision of this Agreement is found to be invalid, void, or unenforceable, the remaining provisions shall continue in full force and effect.
5. **Waiver.** No waiver of any provision of this Agreement shall be effective, except pursuant to a written instrument signed an authorized representative of the party waiving compliance, and any such waiver shall be effective only in the specific instance and for the specific purpose stated in such writing.
6. **Arbitration.** We each agree that any and all disputes between us, which arise out of this contract, the termination of this contract, or under the terms of this contract, shall be resolved through final and binding arbitration. This shall include, without limitation, disputes relating to this contract, any disputes regarding your contract work at CargoTel or the termination thereof, claims for breach of the covenant of good faith and fair dealing, and any claims of discrimination or other claims under and federal, state, or local law or regulation now in existence or hereafter enacted and as amended from time to time concerning in any way the subject of your contract with CargoTel or its termination. Binding arbitration will be conducted in Baltimore, MD in accordance with the rules and regulations of the American Arbitration Association. Each side will bear its own attorney's fees, unless otherwise decided by an arbitrator. You understand and agree the arbitration shall be instead of any civil litigation, that each side waives its rights to a jury trial, and that the arbitrator's decision shall be final and binding to the fullest extent permitted by law and enforceable by any court having jurisdiction thereof.
7. **Counterparts.** This Agreement may be executed in two counterparts each of which shall be an original and together which shall constitute one and the same instrument.
8. **Entire Agreement.** This Agreement, together with its Exhibits, embodies the entire agreement and understanding of the parties hereto, and supersedes all prior or contemporaneous written or oral communications or agreements between CargoTel and Contractor regarding its subject matter. This Agreement may only be amended by written agreement signed by Contractor and an authorized CargoTel representative.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date. Complete and sign **Contractor Agreement Exhibit A.**

[signature] 8/14/06

CargoTel President Name and Date

[signature] 8/15/06

Contractor Name and Date

2-5

CARGOTEL CONTRACTOR AGREEMENT
EXHIBIT A

This form is for completion by independent contractors providing services to CargoTel Inc. Please read the **Professional Services (Contractor) Agreement (General Services) Policy** and complete the requested information below. Sign Exhibit A and forward original to CargoTel President prior to the effective date of your services. Retain a copy for your records.

- **Contact Information:**

Name Francis Lopez

Title

Work Phone 850 240 0397

Home Phone

FAX

E-mail fj14 @ adelphia.net

URL

Effective

Expiration

- Form of Organization (specify):

☑ Individual (none) ☐ General Partnership ☐ Limited Partnership
☐ Limited Liability Partnership ☐ Sole Proprietorship ☐ Limited Liability Company
☐ Corporation ☐ Other

- Enter your ADDRESS in the space provided below.

310 SAND MYRTLE TRAIL DESTIN, FL 32541

- Enter your TAX I.D. in the space provided below.

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

2-6

- Enter your **PURCHASE ORDER # (REQUIRED)** in the space provided below.

  CT01

- Enter your **SERVICES** in the space provided below.

- Enter your **FEE/PAYMENT SCHEDULE** in the space provided below.

  Daily fee of $400.00 per day

You will be eligible to receive commissions based on referrals made directly by you to CargoTel, which result in CargoTel new business revenue. CargoTel will pay you 25% of the base subscription, license and transaction revenue generated for the first year (excluded revenue items include Start-up Fee, Server Maintenance Fee(s), custom programming, help desk, and fax transmissions) up to an annualized compensation level of $150,000.00.

- **CONTRACTOR SIGNATURE** and **DATE** [signature] 8/17/06

- **CARGOTEL PRESIDENT SIGNATURE** and **DATE** [signature] 8/14/06

Note: Subcontracting of Services by Contractor is not permitted unless Subcontractor Addendum to Professional Services Agreement is completed and signed.

DOCKET NUMBER 126-2

L. Scott Keehn, SBN 61691
Leslie F. Keehn, SBN 199153
KEEHN & ASSOCIATES
A Professional Corporation
402 West Broadway, Suite 1210
San Diego, California 92101
Telephone: (619) 400-2200

Attorneys for **Petitioning Creditors**

KEEHN & ASSOCIATES, APC
ATTORNEYS AND COUNSELORS AT LAW
402 WEST BROADWAY, SUITE 1210
SAN DIEGO, CALIFORNIA 92101
TELEPHONE (619) 400-2200 · FACSIMILE (619) 400-2201

UNITED STATES BANKRUPTCY COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

In Re:

FRANCIS J. LOPEZ,

Alleged Debtor.

Case No. 05-05926-PBINV

DECLARATION OF TIMOTHY P. DILLON [BIFURCATED PHASE II]

Date: January 28, 2008
Time: 10:30 a.m.
Judge: The Honorable Peter W. Bowie
Ctrm: 4

I, TIMOTHY P. DILLON, declare as follows:

1. I am an attorney duly admitted to practice before the Courts of this State. I am a shareholder of the law firm of Dillon & Gerardi, APC, counsel for Petitioning Creditor Alan Stanly ("Stanly") in certain cases involving the alleged debtor herein, Francis J. Lopez ("Lopez"), which were and/or are pending before the San Diego Superior Court and the United States District Court for the Southern District of California (the "Additional Lopez Cases"). In connection with the Additional Lopez Cases, I am the *shareholder in charge* of the engagement of the firm on behalf of Stanly, and the attorney within the firm who is most knowledgeable with respect to all aspects of the Additional Lopez Cases. I make this Declaration based upon facts within my

firsthand knowledge acquired in the course of conducting litigation against Lopez in the Additional Lopez Cases.

2. In the normal course of the Additional Lopez Cases, my office caused certain discovery requests to be issued to third parties. Specifically, on or about July 20, 2007, my office caused a Subpoena for documents to be issued to Cargotel, Inc. ("Cargotel"), located in Baltimore, Maryland, for the purpose of obtaining documentary evidence pertaining to the nature and scope of Lopez's employment with Cargotel. In response, Cargotel filed a Motion to Quash the Subpoena. In support of that Motion, Lopez submitted the "Affidavit of Francis Lopez," a true and correct copy of which is attached hereto as Exhibit 1.

3. In connection with the Additional Lopez Cases, my office caused a Subpoena for consumer records to be issued to SunTrust bank located in Orlando, Florida. That Subpoena requested bank account records for Lopez and/or his wife, Madeleine. In response to that Subpoena, SunTrust Bank provided monthly checking account statements for Madeleine for the time period including December 2006 through June 2007, true and correct copies of which are attached hereto as Exhibit 2. The first page of each monthly statements identifies two automatic deposits into Madeleine's checking account by "Scripps Florida PAYROLL." Stanly is informed and believes that Scripps Florida is Madeleine's employer. Stanly is further informed and believes that Madeleine remains employed by Scripps Florida.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct, and that this Declaration was executed on this 22nd day of January, 2008, at San Diego, California.

TIMOTHY P. DILLON

KEEHN & ASSOCIATES, APC
ATTORNEYS AND COUNSELORS AT LAW
402 WEST BROADWAY, SUITE 1210
SAN DIEGO, CALIFORNIA 92101
TELEPHONE (619) 400-2200 · FACSIMILE (619) 400-2201

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

ENTERPRISE TECHNOLOGY HOLDINGS, INC.	*	
Plaintiff	*	
v.	*	Case No.: Miscellaneous
NOVEON SYSTEMS, INC., et al.	*	Southern District Court of California
Defendants	*	Case No.: 05-CV-02236-B-CAB

****

AFFIDAVIT OF FRANCIS LOPEZ

I, **FRANCIS LOPEZ**, hereby affirm under the penalties of perjury that the following is true and correct based upon my personal knowledge:

1. I am over eighteen (18) years of age and am competent to testify as to the facts contained in this Affidavit.

2. I am the Vice President of Marketing of Cargotel, Inc. ("Cargotel") and was hired in this position in August of 2006. Prior to applying for that position, I have never had any dealings with Cargotel.

3. Since I have been employed by Cargotel, I have had no business contact with any of my prior customers with whom I dealt while employed by Noveon Systems, Inc. and, before that, Prism Advance Technologies, Inc.

4. Cargotel's software program is based upon a Linux operating system; the operating system employed by Enterprise Technology Holdings, Inc., Prism Advance Technologies, Inc., and Noveon Systems, Inc. was Microsoft Windows based. Cargotel's

EXHIBIT 5

software systems have nothing to do with those employed by Enterprise Technology Holdings, Inc. The two are not compatible.

Date: Aug. 13, 2007

Francis Lopez

EXHIBIT 2

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PAGE 1 OF 2
63/B07/0175/0/ 39
1000023829301
06/15/2007

SUNTRUST

ACCOUNT
STATEMENT

MADELEINE J MAGILL-LOPEZ
310 SAND MYRTLE TRL
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ACCOUNT SUMMARY

ACCOUNT TYPE	ACCOUNT NUMBER	STATEMENT PERIOD
FREE CHECKING	1000023829301	05/15/2007 - 06/15/2007

DESCRIPTION	AMOUNT	DESCRIPTION	AMOUNT
BEGINNING BALANCE	$2,247.98	AVERAGE BALANCE	$745.33
DEPOSITS/CREDITS	$9,372.05	AVERAGE COLLECTED BALANCE	$733.95
CHECKS	$669.76	NUMBER OF DAYS IN STATEMENT PERIOD	32
WITHDRAWALS/DEBITS	$8,960.24		
ENDING BALANCE	$1,990.03		

DEPOSITS/CREDITS

DATE	AMOUNT	DESCRIPTION
05/25	1,953.79	ELECTRONIC/ACH CREDIT Scripps Florida PAYROLL 170098
05/30	364.47	DEPOSIT
05/31	5,100.00	DEPOSIT
06/08	1,953.79	ELECTRONIC/ACH CREDIT Scripps Florida PAYROLL 170098

DEPOSITS/CREDITS: 4 TOTAL ITEMS DEPOSITED: 2

CHECKS

CHECK NUMBER	AMOUNT	DATE PAID	CHECK NUMBER	AMOUNT	DATE PAID
1287	669.76	05/16			

CHECKS: 1

WITHDRAWALS/DEBITS

DATE	AMOUNT	DESCRIPTION
05/15	40.00	ATM CASH WITHDRAWAL DESTIN TR DATE 05/15 DESTIN FL 1516FL410
05/15	9.25	CHECK CARD PURCHASE RMP DESTIN CONDO DESTIN FL
05/15	21.00	CHECK CARD PURCHASE RMP DESTIN CONDO DESTIN FL
05/15	31.00	CHECK CARD PURCHASE PANDA BUFFET OKA FT WALTON BEAFL
05/15	53.85	POINT OF SALE DEBIT WAL-MART #1362 TR DATE 05/15 DESTIN FL 24136201
05/16	7.42	POINT OF SALE DEBIT WAL-MART #1362 TR DATE 05/16 DESTIN FL 24136201
05/17	160.00	NSF PAID ITEMS PENALTY
05/17	1,600.00	ELECTRONIC/ACH DEBIT HSBC MRTG SVCS D 8008467510
05/17	3.18	CHECK CARD PURCHASE BASKIN #331209 FT WALTON BCHFL

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CONTINUED ON NEXT PAGE

SUNTRUST BANK
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PAGE 2 OF 2
63/B07/0175/0/ 39
1000023029301
06/15/2007

SUNTRUST

ACCOUNT
STATEMENT

WITHDRAWALS/DEBITS

DATE	AMOUNT	DESCRIPTION	
05/17	4.12	CHECK CARD PURCHASE BASKIN #331209	FT WALTON BCHFL
05/17	22.00	CHECK CARD PURCHASE CINEMA PLUS INC	FT WALTON BEAFL
05/17	41.28	CHECK CARD PURCHASE OLD TIME POTTERY	DESTIN FL
05/18	32.00	NSF PAID ITEMS PENALTY	
05/18	27.31	POINT OF SALE DEBIT WAL-MART #2176	TR DATE 05/17 JUPITER FL 24217601
05/21	32.00	NSF PAID ITEMS PENALTY	
05/21	37.72	CHECK CARD PURCHASE SEAN EXPRESS	LAKE CITY FL
05/24	32.00	EXTENDED OVERDRAFT FEE	
05/29	75.00	CHECK CARD PURCHASE TOM THUMB #112	NAVARRE FL
05/29	6.31	POINT OF SALE DEBIT SOU THE HOME DEPOT 162	TR DATE 05/27 DESTIN FL 00000058
05/29	18.84	POINT OF SALE DEBIT SOU THE HOME DEPOT 760	TR DATE 05/28 DESTIN FL 00000057
05/29	48.05	POINT OF SALE DEBIT WAL-MART #1362	TR DATE 05/28 DESTIN FL 24136201
05/29	86.42	POINT OF SALE DEBIT WAL-MART #1362	TR DATE 05/26 DESTIN FL 24136201
05/30	86.03	CHECK CARD PURCHASE CRAB TRAP	DESTIN FL
05/31	25.00	OUTGOING FEDWIRE TRANSFER FEE TRN #010160	
05/31	236.47	ELECTRONIC/ACH DEBIT HSBC CARD SRVCS RUSH PYMNT	000000209544821
05/31	6,190.85	OUTGOING FEDWIRE DR TRN #010160	
05/31	8.00	CHECK CARD PURCHASE WASH N JOE	DESTIN FL
06/04	25.14	CHECK CARD PURCHASE BANGKOK CLEANERS	FORT WALTON BFL

WITHDRAWALS/DEBITS: 28

BALANCE ACTIVITY HISTORY

DATE	BALANCE	COLLECTED BALANCE	DATE	BALANCE	COLLECTED BALANCE
05/15	2,092.88	2,092.88	05/25	1,377.88	1,377.88
05/16	1,415.70	1,415.70	05/29	1,143.26	1,143.26
05/17	-414.88	-414.88	05/30	1,421.70	1,057.70
05/18	-474.19	-474.19	05/31	61.38	61.38
05/21	-543.91	-543.91	06/04	36.24	36.24
05/24	-575.91	-575.91	06/08	1,990.03	1,990.03

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EXHIBIT 2
PAGE 2

SUNTRUST BANK
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PAGE 1 OF 3
63/B07/0175/0/ 39
1000023829301
05/14/2007

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ACCOUNT SUMMARY

ACCOUNT TYPE	ACCOUNT NUMBER	STATEMENT PERIOD
FREE CHECKING	1000023829301	04/14/2007 - 05/14/2007

DESCRIPTION	AMOUNT	DESCRIPTION	AMOUNT
BEGINNING BALANCE	$5,421.51	AVERAGE BALANCE	$2,068.47
DEPOSITS/CREDITS	$9,227.58	AVERAGE COLLECTED BALANCE	$2,052.34
CHECKS	$1,456.28	NUMBER OF DAYS IN STATEMENT PERIOD	31
WITHDRAWALS/DEBITS	$10,944.83		
ENDING BALANCE	$2,247.98		

DEPOSITS/CREDITS

DATE	AMOUNT	DESCRIPTION
04/16	500.00	DEPOSIT
04/27	1,953.79	ELECTRONIC/ACH CREDIT Scripps Florida PAYROLL 170098
04/30	3,120.00	DEPOSIT
05/09	1,700.00	DEPOSIT
05/11	1,953.79	ELECTRONIC/ACH CREDIT Scripps Florida PAYROLL 170098

DEPOSITS/CREDITS: 5 TOTAL ITEMS DEPOSITED: 1

CHECKS

CHECK NUMBER	AMOUNT	DATE PAID	CHECK NUMBER	AMOUNT	DATE PAID
1282	48.84	04/18	1285	1,000.00	04/26
1283	250.00	04/16	1286	42.54	05/14
1284	114.90	04/19			

CHECKS: 5

WITHDRAWALS/DEBITS

DATE	AMOUNT	DESCRIPTION
04/16	136.93	ELECTRONIC/ACH DEBIT CINGULAR CARE CELLULAR 0017234703061
04/16	101.50	ATM CASH WITHDRAWAL Eglin Air Show TR DATE 04/15 EGLIN AIR FORFL DNS15305
04/16	33.23	CHECK CARD PURCHASE AMOCO OIL 07 JUPITER FL
04/16	18.30	POINT OF SALE DEBIT MCDONALD'S F13442 TR DATE 04/14 NICEVILLE FL 19980701
04/16	18.96	POINT OF SALE DEBIT WALGREEN COMPANY MID-B TR DATE 04/14 DESTIN FL AN0003
04/16	39.80	POINT OF SALE DEBIT WAL-MART #1362 TR DATE 04/16 DESTIN FL 24136201
04/16	63.74	POINT OF SALE DEBIT WAL-MART #0919 TR DATE 04/14 FT WALTON BE FL 24091901

CONTINUED ON NEXT PAGE

EXHIBIT 2
PAGE 3

SUNTRUST BANK
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SUNTRUST

ACCOUNT
STATEMENT

WITHDRAWALS/DEBITS

DATE	AMOUNT	DESCRIPTION
04/16	90.93	POINT OF SALE DEBIT TR DATE 04/14 WAL-MART #1362 DESTIN FL 24136201
04/16	2.00	ATM CASH WITHDRAWAL FEE
04/17	32.52	ELECTRONIC/ACH DEBIT FPL DIRECT DEBIT ELEC PYMT 1430095354 WEBI
04/17	116.00	ELECTRONIC/ACH DEBIT GEICO GEICO PYMT 64077426486ODIG
04/17	77.65	CHECK CARD PURCHASE RACEWAY769 40 FT. WALTON BEFL
04/17	10.00	POINT OF SALE DEBIT TR DATE 04/17 PUBLIX 4425 COMMONS DR DESTIN FL AU0003
04/17	18.43	POINT OF SALE DEBIT TR DATE 04/17 WAL-MART #1362 DESTIN FL 24136201
04/18	100.00	ELECTRONIC/ACH DEBIT HSBC CARD SRVCS Online Pmt 000000198622838
04/18	105.08	ELECTRONIC/ACH DEBIT GULF GULF EBILL 4428063025PTW
04/18	1,610.00	ELECTRONIC/ACH DEBIT HSBC MRTG SVCS D 8008467510
04/18	58.70	CHECK CARD PURCHASE THE OLIVE GARD00 DESTIN FL
04/18	159.00	CHECK CARD PURCHASE GULFARIUM ADMISS FORT WALTON BFL
04/18	8.69	POINT OF SALE DEBIT TR DATE 04/17 MURPHY6657@WAL-M LIVE OAK FL MURC665
04/18	32.02	POINT OF SALE DEBIT TR DATE 04/17 PILOT TRAVEL CENTER 04 MIDWAY FL 34600701
04/19	10.18	POINT OF SALE DEBIT TR DATE 04/18 SOU USPS 1169180420360 JUPITER FL 00000098
04/19	16.16	POINT OF SALE DEBIT TR DATE 04/18 SDI #576-4685 DESTIN FL 48075601
04/20	5.00	CHECK CARD PURCHASE AMOCO OIL 06 QUINCY FL
04/20	15.95	CHECK CARD PURCHASE BLOCK *TAXCUT E 800-HRBLOCK MO
04/20	116.38	CHECK CARD PURCHASE BANGKOK CLEANERS FORT WALTON BFL
04/23	40.00	ATM CASH WITHDRAWAL TR DATE 04/21 PALM BEACH GARDENS PALM BCH GDNSFL F419FL098
04/23	21.14	POINT OF SALE DEBIT TR DATE 04/22 WAL-MART #3348 LAKE PARK FL 24334801
04/23	37.26	POINT OF SALE DEBIT TR DATE 04/21 TJ TJ MAXX JUPITER FL AW0003
04/25	40.00	ATM CASH WITHDRAWAL TR DATE 04/25 JUPITER JUPITER FL I199FL439
04/25	38.81	CHECK CARD PURCHASE TEXACO 00302987 LAKE PARK FL
04/27	7.88	POINT OF SALE DEBIT TR DATE 04/27 WAL-MART #2626 LIVE OAK FL 24262601
04/27	39.01	POINT OF SALE DEBIT TR DATE 04/27 MURPHY6657@WAL-M LIVE OAK FL MURC665
04/30	25.00	OUTGOING FEDWIRE TRANSFER FEE TRN #010202
04/30	6,190.85	OUTGOING FEDWIRE DR TRN #010202
04/30	46.87	POINT OF SALE DEBIT TR DATE 04/28 WAL-MART #1362 DESTIN FL 24136201
05/01	2.96	POINT OF SALE DEBIT TR DATE 04/30 MURPHY5501@WAL-M DESTIN FL MURC550
05/02	3.36	POINT OF SALE DEBIT TR DATE 05/01 WAL-MART #2626 LIVE OAK FL 24262601
05/04	11.80	CHECK CARD PURCHASE SNAPFISH 301-5955300 CA

MEMBER FDIC

CONTINUED ON NEXT PAGE

SUNTRUST BANK
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SUNTRUST

ACCOUNT STATEMENT

WITHDRAWALS/DEBITS

DATE	AMOUNT	DESCRIPTION		
05/04	37.60	CHECK CARD PURCHASE OKAHUMPKA CITGO	WILDWOOD FL	
05/04	10.65	POINT OF SALE DEBIT WAL-MART #2176	TR DATE 05/03 JUPITER FL	24217601
05/07	64.00	NSF PAID ITEMS PENALTY		
05/07	4.52	CHECK CARD PURCHASE GOODWILL INDUSTR	JUPITER FL	
05/07	67.80	CHECK CARD PURCHASE ECI*GOTOMYPC.COM	888-259-3826 CA	
05/09	21.25	POINT OF SALE DEBIT SOU USPS 1169180420561	TR DATE 05/09 JUPITER FL	00000095
05/09	600.00	OVER-THE-COUNTER WITHDRAWAL		
05/10	133.31	ELECTRONIC/ACH DEBIT CINGULAR CARE CELLULAR	0017234703061	
05/10	18.47	POINT OF SALE DEBIT WAL-MART #2176	TR DATE 05/09 JUPITER FL	24217601
05/11	117.00	ELECTRONIC/ACH DEBIT GEICO GEICO PYMT	64077426486ODIG	
05/11	36.31	CHECK CARD PURCHASE CIRCLE K 05338	JUPITER FL	
05/11	5.00	POINT OF SALE DEBIT PUBLIX 5500 MILITARY T	TR DATE 05/10 JUPITER FL	AN0003
05/11	8.73	POINT OF SALE DEBIT WAL-MART #2626	TR DATE 05/11 LIVE OAK FL	24262601
05/11	35.56	POINT OF SALE DEBIT MURPHY6657@WAL-M	TR DATE 05/11 LIVE OAK FL	MURC665
05/14	9.67	CHECK CARD PURCHASE PETLAND OF FORT	FORT WALTON BFL	
05/14	10.50	CHECK CARD PURCHASE SNAPFISH	301-5955308 CA	
05/14	11.07	CHECK CARD PURCHASE MCDONALD'S M6440	JUPITER FL	
05/14	14.16	CHECK CARD PURCHASE GOODWILL INDUSTR	JUPITER FL	
05/14	23.95	CHECK CARD PURCHASE KFCTACOBELL EAST	DESTIN FL	
05/14	31.65	POINT OF SALE DEBIT RACEWAY769	TR DATE 05/13 FT. WALTON B FL	52268502
05/14	181.54	POINT OF SALE DEBIT WAL-MART #1362	TR DATE 05/12 DESTIN FL	24136201

WITHDRAWALS/DEBITS: 60

BALANCE ACTIVITY HISTORY

DATE	BALANCE	COLLECTED BALANCE	DATE	BALANCE	COLLECTED BALANCE
04/14	5,421.51	5,421.51	04/30	97.59	97.59
04/16	5,166.12	4,666.12	05/01	94.63	94.63
04/17	4,911.52	4,911.52	05/02	91.27	91.27
04/18	2,789.19	2,789.19	05/04	31.22	31.22
04/19	2,647.95	2,647.95	05/07	-105.10	-105.10
04/20	2,510.62	2,510.62	05/09	973.65	973.65
04/23	2,412.22	2,412.22	05/10	821.87	821.87
04/25	2,333.41	2,333.41	05/11	2,573.06	2,573.06
04/26	1,333.41	1,333.41	05/14	2,247.98	2,247.98
04/27	3,240.31	3,240.31			

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PAGE 1 OF 3
63/B07/0175/0/ 39
1000023829301
04/13/2007

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MADELEINE J MAGILL-LOPEZ
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ACCOUNT SUMMARY

ACCOUNT TYPE	ACCOUNT NUMBER	STATEMENT PERIOD
FREE CHECKING	1000023829301	03/16/2007 - 04/13/2007

DESCRIPTION	AMOUNT	DESCRIPTION	AMOUNT
BEGINNING BALANCE	$1,323.15	AVERAGE BALANCE	$1,653.28
DEPOSITS/CREDITS	$15,654.18	AVERAGE COLLECTED BALANCE	$1,318.77
CHECKS	$239.02	NUMBER OF DAYS IN STATEMENT PERIOD	29
WITHDRAWALS/DEBITS	$11,316.80		
ENDING BALANCE	$5,421.51		

DEPOSITS/CREDITS

DATE	AMOUNT	DESCRIPTION
03/16	1,953.79	ELECTRONIC/ACH CREDIT Scripps Florida PAYROLL 170098
03/26	1,001.08	DEPOSIT
03/27	4,300.00	DEPOSIT
03/30	2,045.52	ELECTRONIC/ACH CREDIT Scripps Florida PAYROLL 170098
04/11	4,400.00	DEPOSIT
04/13	1,953.79	ELECTRONIC/ACH CREDIT Scripps Florida PAYROLL 170098

DEPOSITS/CREDITS: 6 TOTAL ITEMS DEPOSITED: 3

CHECKS

CHECK NUMBER	AMOUNT	DATE PAID	CHECK NUMBER	AMOUNT	DATE PAID
1280	55.00	04/02	1281	184.02	03/29

CHECKS: 2

WITHDRAWALS/DEBITS

DATE	AMOUNT	DESCRIPTION
03/16	30.00	POINT OF SALE DEBIT TR DATE 03/16 PUBLIX 5500 MILITARY T JUPITER FL A40003
03/19	657.97	ELECTRONIC/ACH DEBIT 1-800-200-4622 TRUEPAY 7.00 /25532401
03/19	1,610.00	ELECTRONIC/ACH DEBIT HSBC MRTG SVCS D 3008467510
03/19	16.11	CHECK CARD PURCHASE GOODWILL INDUSTR JUPITER FL
03/19	27.80	POINT OF SALE DEBIT TR DATE 03/19 PUBLIX 5500 MILITARY T JUPITER FL A90003
03/19	35.45	POINT OF SALE DEBIT TR DATE 03/17 WAL-MART #3343 LAKE PARK FL 24324801
03/20	33.60	ELECTRONIC/ACH DEBIT FPL DIRECT DEBIT ELEC PYMT 1430095354 WEBI

MEMBER FDIC

CONTINUED ON NEXT PAGE

EXHIBIT 2
PAGE 6

SUNTRUST BANK
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PAGE 2 OF 3
63/B07/0175/0/ 39
1000023829301
04/13/2007

SUNTRUST

ACCOUNT
STATEMENT

WITHDRAWALS/DEBITS

DATE	AMOUNT	DESCRIPTION		
03/20	33.00	CHECK CARD PURCHASE		
		WESCO #21	JUPITER FL	
03/21	137.66	ELECTRONIC/ACH DEBIT		
		CINGULAR CARE CELLULAR	0017234703061	
03/21	10.50	CHECK CARD PURCHASE		
		BURGER KING #555	DESTIN FL	
03/21	38.23	POINT OF SALE DEBIT		TR DATE 03/20
		WAL-MART #3348	LAKE PARK FL	24334801
03/21	47.31	POINT OF SALE DEBIT		TR DATE 03/21
		WAL-MART #1362	DESTIN FL	24136201
03/23	8.57	POINT OF SALE DEBIT		TR DATE 03/23
		WALGREEN COMPANY MID-B	DESTIN FL	AH0003
03/23	9.32	POINT OF SALE DEBIT		TR DATE 03/23
		WAL-MART #2626	LIVE OAK FL	24262601
03/26	33.00	CHECK CARD PURCHASE		
		MURPHY6657@WAL-M	LIVE OAK FL	
03/26	12.87	POINT OF SALE DEBIT		TR DATE 03/26
		WAL-MART #0919	FT WALTON BE FL	24091901
03/26	13.62	POINT OF SALE DEBIT		TR DATE 03/25
		WAL-MART #1362	DESTIN FL	24136201
03/26	97.57	POINT OF SALE DEBIT		TR DATE 03/24
		WAL-MART #1362	DESTIN FL	24136201
03/27	189.18	ELECTRONIC/ACH DEBIT		
		COX ENTERPRISES BROADBAND	6468680	
03/27	244.84	ELECTRONIC/ACH DEBIT		
		HSBC CARD SRVCS Online Pmt	000000192871440	
03/27	19.72	POINT OF SALE DEBIT		TR DATE 03/27
		WAL-MART #0919	FT WALTON BE FL	24091901
03/28	32.01	CHECK CARD PURCHASE		
		SABOR A MEXICO	FORT WALTON BFL	
03/28	13.30	POINT OF SALE DEBIT		TR DATE 03/27
		PUBLIX 4425 COMMONS DR	DESTIN FL	AH0003
03/28	28.27	POINT OF SALE DEBIT		TR DATE 03/28
		WAL-MART #1362	DESTIN FL	24136201
03/28	50.00	POINT OF SALE DEBIT		TR DATE 03/27
		MURPHY7409@WAL-M	NAVARRE FL	MURC740
03/29	29.45	POINT OF SALE DEBIT		TR DATE 03/29
		WAL-MART #1362	DESTIN FL	24136201
03/30	25.00	OUTGOING FEDWIRE TRANSFER FEE TRN #012019		
03/30	6,190.85	OUTGOING FEDWIRE DR TRN #012019		
03/30	75.00	CHECK CARD PURCHASE		
		THE GULF COAST Z	GULF BREEZE FL	
04/02	34.07	CHECK CARD PURCHASE		
		CHUCK E CHEESES	PANAMA CITY FL	
04/02	35.88	POINT OF SALE DEBIT		TR DATE 03/31
		WAL-MART #1362	DESTIN FL	24136201
04/04	550.00	OVER-THE-COUNTER WITHDRAWAL		
04/05	32.00	NSF PAID ITEMS PENALTY		
04/05	67.80	CHECK CARD PURCHASE		
		ECI*GOTOMYPC.COM	888-259-3826 CA	
04/13	657.97	ELECTRONIC/ACH DEBIT		
		1-800-200-4622 TRUEPAY	7.00 /25862995	
04/13	40.00	ATM CASH WITHDRAWAL		TR DATE 04/12
		JUPITER	JUPITER FL	I199FL439
04/13	100.00	ATM CASH WITHDRAWAL		TR DATE 04/12
		DESTIN	DESTIN FL	I516FL410
04/13	5.81	POINT OF SALE DEBIT		TR DATE 04/13
		WAL-MART #2626	LIVE OAK FL	24262601
04/13	11.06	POINT OF SALE DEBIT		TR DATE 04/13
		WAL-MART #2626	LIVE OAK FL	24262601

CONTINUED ON NEXT PAGE

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PAGE 3 OF 3
63/B07/0175/0/ 39
1000023829301
04/13/2007

SUNTRUST

ACCOUNT
STATEMENT

WITHDRAWALS/DEBITS

DATE	AMOUNT	DESCRIPTION
04/13	32.01	POINT OF SALE DEBIT TR DATE 04/13 MURPHY6657@WAL-M LIVE OAK FL MURC665

WITHDRAWALS/DEBITS: 40

BALANCE ACTIVITY HISTORY

DATE	BALANCE	COLLECTED BALANCE	DATE	BALANCE	COLLECTED BALANCE
03/16	3,246.94	3,246.94	03/29	4,934.65	4,934.65
03/19	899.61	899.61	03/30	689.32	689.32
03/20	833.01	833.01	04/02	564.37	564.37
03/21	599.31	599.31	04/04	14.37	14.37
03/23	581.42	581.42	04/05	-85.43	-85.43
03/26	1,425.44	424.44	04/11	4,314.57	-85.43
03/27	5,271.70	971.70	04/12	4,314.57	4,314.57
03/28	5,148.12	5,148.12	04/13	5,421.51	5,421.51

SUNTRUST BANK
P O BOX 622227
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PAGE 1 OF 3
63/B07/0175/0/ 39
1000023829301
03/15/2007

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ACCOUNT
STATEMENT

MADELEINE J MAGILL-LOPEZ
310 SAND MYRTLE TRL
DESTIN FL 32541-3429

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ACCOUNT SUMMARY

ACCOUNT TYPE	ACCOUNT NUMBER	STATEMENT PERIOD
FREE CHECKING	1000023829301	02/15/2007 - 03/15/2007

DESCRIPTION	AMOUNT	DESCRIPTION	AMOUNT
BEGINNING BALANCE	$919.88	AVERAGE BALANCE	$1,570.70
DEPOSITS/CREDITS	$5,907.58	AVERAGE COLLECTED BALANCE	$1,570.70
CHECKS	$1,732.87	NUMBER OF DAYS IN STATEMENT PERIOD	29
WITHDRAWALS/DEBITS	$3,771.44		
ENDING BALANCE	$1,323.15		

DEPOSITS/CREDITS

DATE	AMOUNT	DESCRIPTION
02/16	1,953.79	ELECTRONIC/ACH CREDIT Scripps Florida PAYROLL 170098
03/02	1,953.79	ELECTRONIC/ACH CREDIT Scripps Florida PAYROLL 170098
03/12	2,000.00	DEPOSIT

DEPOSITS/CREDITS: 3 TOTAL ITEMS DEPOSITED: 0

CHECKS

CHECK NUMBER	AMOUNT	DATE PAID	CHECK NUMBER	AMOUNT	DATE PAID
1267	550.00	02/23	1276	41.61	03/14
*1271	8.72	02/20	1277	150.88	03/14
*1273	63.08	02/16	1278	116.67	03/08
1274	25.94	02/23	1279	125.00	03/12
1275	650.97	03/05			

CHECKS: 9 *BREAK IN CHECK SEQUENCE

WITHDRAWALS/DEBITS

DATE	AMOUNT	DESCRIPTION
02/15	29.95	POINT OF SALE DEBIT TR DATE 02/14 WAL-MART #3348 LAKE PARK FL 24334801
02/16	18.01	POINT OF SALE DEBIT TR DATE 02/15 TARGET T2085 DESTIN DESTIN FL 20850071
02/16	27.00	POINT OF SALE DEBIT TR DATE 02/16 MURPHY6657@WAL-M LIVE OAK FL MURC665
02/20	41.12	ELECTRONIC/ACH DEBIT FPL DIRECT DEBIT ELEC PYMT 1430095354 WEBI
02/20	100.00	ATM CASH WITHDRAWAL TR DATE 02/19 DESTIN DESTIN FL I516FL410
02/20	6.00	CHECK CARD PURCHASE RMP DESTIN COMMO DESTIN FL
02/20	15.09	CHECK CARD PURCHASE WENDY'S #0100 DESTIN FL

MEMBER FDIC

CONTINUED ON NEXT PAGE

SUNTRUST BANK
P O BOX 622227
ORLANDO FL 32862-2227

PAGE 2 OF 3
63/B07/0175/0/ 39
1000023829301
03/15/2007

SUNTRUST

ACCOUNT
STATEMENT

WITHDRAWALS/DEBITS

DATE	AMOUNT	DESCRIPTION	
02/20	18.00	CHECK CARD PURCHASE RMP DESTIN COMMO	DESTIN FL
02/20	19.89	CHECK CARD PURCHASE GOLDEN CORRAL 64	DESTIN FL
02/20	23.01	CHECK CARD PURCHASE AMOCO OIL 07	JUPITER FL
02/20	24.50	CHECK CARD PURCHASE TJMAXX #0070	PALM BEACH GAFL
02/20	13.87	POINT OF SALE DEBIT WAL-MART #2626	TR DATE 02/16 LIVE OAK FL 24262601
02/20	45.67	POINT OF SALE DEBIT WAL-MART #1362	TR DATE 02/19 DESTIN FL 24136201
02/20	78.45	POINT OF SALE DEBIT WAL-MART #1362	TR DATE 02/17 DESTIN FL 24136201
02/22	8.00	CHECK CARD PURCHASE WASH N JOE	DESTIN FL
02/23	28.01	CHECK CARD PURCHASE FT PIERCE CITGO	FORT PIERCE FL
02/23	29.00	CHECK CARD PURCHASE AMOCO OIL 06	QUINCY FL
02/23	56.43	POINT OF SALE DEBIT WAL-MART #3348	TR DATE 02/22 LAKE PARK FL 24334801
02/26	5.72	POINT OF SALE DEBIT WALGREEN COMPANY MID-B	TR DATE 02/26 DESTIN FL AC0003
02/28	1,485.00	OVER-THE-COUNTER WITHDRAWAL	
03/01	15.39	POINT OF SALE DEBIT WAL-MART #1362	TR DATE 02/28 DESTIN FL 24136201
03/02	8.57	POINT OF SALE DEBIT WALGREEN COMPANY MID-B	TR DATE 03/02 DESTIN FL AB0003
03/02	15.82	POINT OF SALE DEBIT WAL-MART #2626	TR DATE 03/02 LIVE OAK FL 24262601
03/02	23.17	POINT OF SALE DEBIT WAL-MART #2176	TR DATE 03/01 JUPITER FL 24217601
03/05	4.00	CHECK CARD PURCHASE GOLDEN CORRAL 64	DESTIN FL
03/05	6.49	CHECK CARD PURCHASE KRISPY KREME PEN	PENSACOLA FL
03/05	12.44	CHECK CARD PURCHASE WENDY'S #0108	DESTIN FL
03/05	19.89	CHECK CARD PURCHASE GOLDEN CORRAL 64	DESTIN FL
03/05	27.24	CHECK CARD PURCHASE TURKEY LAKE CITG	OCOEE FL
03/05	30.00	CHECK CARD PURCHASE CHEVRON 00209538	FREEPORT FL
03/05	34.60	CHECK CARD PURCHASE FT WALTON BEACH	FT WALTON BEAFL
03/05	67.80	CHECK CARD PURCHASE ECI*GOTOMYPC.COM	888-259-3826 CA
03/05	29.55	POINT OF SALE DEBIT WAL-MART #1362	TR DATE 03/05 DESTIN FL 24136201
03/05	34.66	POINT OF SALE DEBIT PUBLIX 1425 COMMONS DR	TR DATE 03/04 DESTIN FL AP0003
03/05	97.96	POINT OF SALE DEBIT WAL-MART #1362	TR DATE 03/03 DESTIN FL 24136201
03/06	17.74	CHECK CARD PURCHASE CAPTAIN D'S #101	FT WALTON BCHFL
03/07	12.00	CHECK CARD PURCHASE KFCTACOBELL EAST	DESTIN FL
03/07	15.65	CHECK CARD PURCHASE WAL-MART #1362	DESTIN FL

CONTINUED ON NEXT PAGE

SUNTRUST BANK
P O BOX 622227
ORLANDO FL 32862-2227

PAGE 3 OF 3
63/B07/0175/0/ 39
1000023829301
03/15/2007

SUNTRUST

ACCOUNT
STATEMENT

WITHDRAWALS/DEBITS

DATE	AMOUNT	DESCRIPTION		
03/07	13.51	POINT OF SALE DEBIT		TR DATE 03/07
		WAL-MART #1362	DESTIN	FL 24136201
03/07	44.82	POINT OF SALE DEBIT		TR DATE 03/06
		WAL-MART #1362	DESTIN	FL 24136201
03/08	17.87	POINT OF SALE DEBIT		TR DATE 03/07
		WAL-MART #1362	DESTIN	FL 24136201
03/09	10.30	POINT OF SALE DEBIT		TR DATE 03/09
		WAL-MART #0919	FT WALTON BE	FL 24091901
03/12	100.00	ATM CASH WITHDRAWAL		TR DATE 03/10
		FORT WALTON BEACH	FT WALTON BCHFL	I453FL477
03/12	19.89	CHECK CARD PURCHASE		
		GOLDEN CORRAL 64	DESTIN	FL
03/12	24.60	CHECK CARD PURCHASE		
		CIRCLE K 08347	DESTIN	FL
03/12	7.94	POINT OF SALE DEBIT		TR DATE 03/09
		PUBLIX 4425 COMMONS DR	DESTIN	FL A30003
03/12	18.99	POINT OF SALE DEBIT		TR DATE 03/10
		WAL-MART #1362	DESTIN	FL 24136201
03/12	34.00	POINT OF SALE DEBIT		TR DATE 03/11
		MURPHY6657@WAL-M	LIVE OAK	FL MURC665
03/12	59.63	POINT OF SALE DEBIT		TR DATE 03/12
		CHEVRON/KANAGROO #3851	DESTIN	FL A00003
03/12	575.00	OVER-THE-COUNTER WITHDRAWAL		
03/13	50.00	ELECTRONIC/ACH DEBIT		
		HSBC CARD SRVCS Online Pmt	000000189467612	
03/13	235.78	ELECTRONIC/ACH DEBIT		
		GEICO GEICO PYMT	640774264860DIG	
03/13	13.42	CHECK CARD PURCHASE		
		HARDEE'S #417615	FT.WALTON BCHFL	

WITHDRAWALS/DEBITS: 53

BALANCE ACTIVITY HISTORY

DATE	BALANCE	COLLECTED BALANCE	DATE	BALANCE	COLLECTED BALANCE
02/15	889.93	889.93	03/05	1,028.45	1,028.45
02/16	2,735.63	2,735.63	03/06	1,010.71	1,010.71
02/20	2,341.31	2,341.31	03/07	924.73	924.73
02/22	2,333.31	2,333.31	03/08	790.19	790.19
02/23	1,643.93	1,643.93	03/09	779.89	779.89
02/26	1,638.21	1,638.21	03/12	1,814.84	1,814.84
02/28	153.21	153.21	03/13	1,515.64	1,515.64
03/01	137.82	137.82	03/14	1,323.15	1,323.15
03/02	2,044.05	2,044.05			

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PAGE 1 OF 4
63/B07/0175/0/ 39
1000023829301
02/14/2007

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MADELEINE J MAGILL-LOPEZ
310 SAND MYRTLE TRL
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ACCOUNT SUMMARY

ACCOUNT TYPE	ACCOUNT NUMBER	STATEMENT PERIOD
FREE CHECKING	1000023829301	01/17/2007 - 02/14/2007

DESCRIPTION	AMOUNT	DESCRIPTION	AMOUNT
BEGINNING BALANCE	$711.38	AVERAGE BALANCE	$2,830.53
DEPOSITS/CREDITS	$8,802.63	AVERAGE COLLECTED BALANCE	$2,489.67
CHECKS	$2,178.65	NUMBER OF DAYS IN STATEMENT PERIOD	29
WITHDRAWALS/DEBITS	$6,415.48		
ENDING BALANCE	$919.88		

DEPOSITS/CREDITS

DATE	AMOUNT	DESCRIPTION
01/19	1,953.79	ELECTRONIC/ACH CREDIT Scripps Florida PAYROLL 170098
01/23	4,400.00	DEPOSIT
01/29	495.05	DEPOSIT
02/02	1,953.79	ELECTRONIC/ACH CREDIT Scripps Florida PAYROLL 170098

DEPOSITS/CREDITS: 4 TOTAL ITEMS DEPOSITED: 2

CHECKS

CHECK NUMBER	AMOUNT	DATE PAID	CHECK NUMBER	AMOUNT	DATE PAID
1256	48.88	01/17	1264	19.97	02/13
*1259	4.64	01/18	1265	486.40	02/05
1260	681.91	01/22	1266	125.00	02/12
1261	25.00	01/23	*1269	49.05	02/14
1262	251.10	01/23	1270	130.90	02/14
1263	235.00	01/29	*1272	120.80	02/14

CHECKS: 12 *BREAK IN CHECK SEQUENCE

WITHDRAWALS/DEBITS

DATE	AMOUNT	DESCRIPTION
01/17	54.12	ELECTRONIC/ACH DEBIT FPL DIRECT DEBIT ELEC PYMT 1430095354 WEBI
01/17	31.94	CHECK CARD PURCHASE CHUCK E CHEESES PANAMA CITY FL
01/17	14.97	POINT OF SALE DEBIT TR DATE 01/17 PUBLIX 5500 MILITARY T JUPITER FL A70003
01/18	22.30	CHECK CARD PURCHASE CHINA TASTE II DESTIN FL
01/18	27.56	CHECK CARD PURCHASE CIRCLE K 08347 DESTIN FL
01/19	28.01	CHECK CARD PURCHASE TURKEY LAKE CITG OCOEE FL

CONTINUED ON NEXT PAGE

SUNTRUST BANK
P O BOX 622227
ORLANDO FL 32862-2227

PAGE 2 OF 4
63/B07/0175/0/ 39
1000023829301
02/14/2007

SunTrust

ACCOUNT
STATEMENT

WITHDRAWALS/DEBITS

DATE	AMOUNT	DESCRIPTION	
01/19	8.44	POINT OF SALE DEBIT TARGET T0391 W PALM BE	TR DATE 01/18 W Palm Beach FL 03910116
01/19	24.72	POINT OF SALE DEBIT TARGET T1941 PALM BEAC	TR DATE 01/18 LAKE PARK FL 19410080
01/19	55.10	POINT OF SALE DEBIT WAL-MART #1362	TR DATE 01/19 DESTIN FL 24136201
01/22	4.77	CHECK CARD PURCHASE SNAPFISH	301-5955308 CA
01/22	14.58	CHECK CARD PURCHASE SNAPFISH	301-5955308 CA
01/22	7.38	POINT OF SALE DEBIT WAL-MART #2176	TR DATE 01/21 JUPITER FL 24217601
01/22	7.75	POINT OF SALE DEBIT WAL-MART #2176	TR DATE 01/19 JUPITER FL 24217601
01/22	9.79	POINT OF SALE DEBIT PUBLIX 5500 MILITARY T	TR DATE 01/20 JUPITER FL AU0003
01/22	20.18	POINT OF SALE DEBIT SOU USPS 1169100420460	TR DATE 01/19 JUPITER FL 00000094
01/22	25.29	POINT OF SALE DEBIT TJ TJ MAXX	TR DATE 01/20 PALM BEACH GAFL AS0003
01/22	27.15	POINT OF SALE DEBIT WALGREEN COMPANY 8220	TR DATE 01/20 NAVARRE FL AK0003
01/22	51.93	POINT OF SALE DEBIT SOU ROSS STORE #585861	TR DATE 01/21 DESTIN FL 00000007
01/23	6.53	CHECK CARD PURCHASE SNAPFISH	301-5955308 CA
01/23	9.40	CHECK CARD PURCHASE SNAPFISH	301-5955308 CA
01/23	10.64	CHECK CARD PURCHASE TJMAXX #0070	PALM BEACH GAFL
01/23	38.65	CHECK CARD PURCHASE PANDA BUFFET OKA	FT WALTON BEAFL
01/23	3.98	POINT OF SALE DEBIT WAL-MART #2176	TR DATE 01/22 JUPITER FL 24217601
01/23	33.39	POINT OF SALE DEBIT SOU GAMESTOP #2846 032	TR DATE 01/22 DESTIN FL 00000001
01/24	100.00	ATM CASH WITHDRAWAL DESTIN	TR DATE 01/24 DESTIN FL I516FL410
01/24	140.00	ATM CASH WITHDRAWAL DESTIN	TR DATE 01/24 DESTIN FL I516FL410
01/24	16.19	CHECK CARD PURCHASE SONIC #4685	DESTIN FL
01/24	23.62	POINT OF SALE DEBIT WAL-MART #1362	TR DATE 01/24 DESTIN FL 24136201
01/24	25.77	POINT OF SALE DEBIT PUBLIX 5500 MILITARY T	TR DATE 01/24 JUPITER FL A20003
01/24	45.45	POINT OF SALE DEBIT EXXONMOBIL POS	TR DATE 01/23 DESTIN FL H5H3
01/26	10.42	CHECK CARD PURCHASE GOODWILL INDUSTR	JUPITER FL
01/26	14.91	POINT OF SALE DEBIT TJ TJ MAXX	TR DATE 01/25 JUPITER FL AW0003
01/26	28.01	POINT OF SALE DEBIT I-10 PECAN HOUSE	TR DATE 01/26 MONTICELLO FL 15330401
01/29	400.00	ATM CASH WITHDRAWAL DESTIN	TR DATE 01/27 DESTIN FL I516FL410
01/29	9.64	CHECK CARD PURCHASE PETLAND OF FORT	FORT WALTON BFL
01/29	24.46	CHECK CARD PURCHASE WESCO #21	JUPITER FL

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CONTINUED ON NEXT PAGE

SUNTRUST BANK
P O BOX 622227
ORLANDO FL 32862-2227

PAGE 3 OF 4
63/B07/0175/0/ 39
1000023829301
02/14/2007

SUNTRUST

ACCOUNT
STATEMENT

WITHDRAWALS/DEBITS

DATE	AMOUNT	DESCRIPTION	
01/29	35.74	CHECK CARD PURCHASE SABER A. MEXICO	 FT WALTON BEAFL
01/29	51.42	CHECK CARD PURCHASE THE OLIVE GARD00	 DESTIN FL
01/29	27.88	POINT OF SALE DEBIT OFFICE MAX 14081 EMERA	TR DATE 01/29 DESTIN FL AW0003
01/29	176.18	POINT OF SALE DEBIT WAL-MART #1362	TR DATE 01/27 DESTIN FL 24136201
01/30	11.68	POINT OF SALE DEBIT PUBLIX 4425 COMMONS DR	TR DATE 01/30 DESTIN FL AK0003
01/30	70.61	POINT OF SALE DEBIT WAL-MART #1362	TR DATE 01/30 DESTIN FL 24136201
01/31	2,518.33	ELECTRONIC/ACH DEBIT HSBC MRTG SVCS D 8008467510	
01/31	7.72	CHECK CARD PURCHASE PETLAND OF FORT	 FORT WALTON BFL
01/31	7.48	POINT OF SALE DEBIT WAL-MART #0919	TR DATE 01/31 FT WALTON BE FL 24091901
01/31	13.50	POINT OF SALE DEBIT TARGET T2085 DESTIN	TR DATE 01/31 DESTIN FL 20850077
02/01	55.41	POINT OF SALE DEBIT WAL-MART #1362	TR DATE 02/01 DESTIN FL 24136201
02/02	5.60	CHECK CARD PURCHASE PETLAND OF FORT	 FORT WALTON BFL
02/02	21.97	POINT OF SALE DEBIT PUBLIX 4425 COMMONS DR	TR DATE 02/02 DESTIN FL A40003
02/05	60.00	ATM CASH WITHDRAWAL DESTIN	TR DATE 02/05 DESTIN FL I516FL410
02/05	49.57	CHECK CARD PURCHASE FCA WAL MART POR	 FT WALTON BEAFL
02/05	50.02	CHECK CARD PURCHASE MURPHY5501@WAL-M	 DESTIN FL
02/05	66.86	CHECK CARD PURCHASE LONGHORN #082	 DESTIN FL
02/05	67.80	CHECK CARD PURCHASE ECI*GOTOMYPC.COM	 888-259-3826 CA
02/05	5.72	POINT OF SALE DEBIT WALGREEN COMPANY MID-B	TR DATE 02/05 DESTIN FL AK0003
02/05	8.87	POINT OF SALE DEBIT WAL-MART #0919	TR DATE 02/04 FT WALTON BE FL 24091901
02/05	14.55	POINT OF SALE DEBIT WAL-MART #2626	TR DATE 02/04 LIVE OAK FL 24262601
02/05	25.70	POINT OF SALE DEBIT PILOT TRAVEL CENTER 04	TR DATE 02/04 MIDWAY FL 34600701
02/05	25.93	POINT OF SALE DEBIT WAL-MART #0919	TR DATE 02/04 FT WALTON BE FL 24091901
02/05	70.93	POINT OF SALE DEBIT TJ TJ MAXX	TR DATE 02/05 PALM BEACH GAFL AF0003
02/05	600.00	OVER-THE-COUNTER WITHDRAWAL	
02/06	144.18	ELECTRONIC/ACH DEBIT CINGULAR CARE CELLULAR - 0017234703061	
02/06	61.90	CHECK CARD PURCHASE SOGO YOKOHAMA	 YOKOHAMA-SHI JP
02/06	43.44	POINT OF SALE DEBIT OFFICE DEPOT OFFICE DE	TR DATE 02/06 DESTIN FL AS0003
02/06	45.87	POINT OF SALE DEBIT WAL-MART #2176	TR DATE 02/06 JUPITER FL 24217601
02/07	139.91	ELECTRONIC/ACH DEBIT HSBC CARD SRVCS Online Pmt 000000112283092	
02/07	23.88	CHECK CARD PURCHASE HARDEE'S #417615	 FT.WALTON BCHFL

MEMBER FDIC

CONTINUED ON NEXT PAGE

SUNTRUST BANK
P O BOX 622227
ORLANDO FL 32862-2227

PAGE 4 OF 4
63/B07/0175/0/ 39
1000023829301
02/14/2007

SUNTRUST

ACCOUNT
STATEMENT

WITHDRAWALS/DEBITS

DATE	AMOUNT	DESCRIPTION		
02/07	27.52	CHECK CARD PURCHASE FT PIERCE CITGO	FORT PIERCE FL	
02/08	26.82	CHECK CARD PURCHASE GOODWILL INDUSTR	JUPITER FL	
02/08	79.50	CHECK CARD PURCHASE CINGULAR X004 99	8882843014 PA	
02/08	18.96	POINT OF SALE DEBIT WAL-MART #1362	DESTIN FL 24136201	TR DATE 02/08
02/08	37.35	POINT OF SALE DEBIT SOU USPS 1169180420662	JUPITER FL 00000098	TR DATE 02/07
02/09	13.26	POINT OF SALE DEBIT PUBLIX 4425 COMMONS DR	DESTIN FL AM0003	TR DATE 02/08
02/09	21.35	POINT OF SALE DEBIT PUBLIX 5500 MILITARY T	JUPITER FL AR0003	TR DATE 02/09
02/12	40.00	ATM CASH WITHDRAWAL JUPITER	JUPITER FL I199FL439	TR DATE 02/11
02/12	12.18	CHECK CARD PURCHASE WHATABURGER #805	DESTIN FL	
02/12	12.35	POINT OF SALE DEBIT WAL-MART #2176	JUPITER FL 24217601	TR DATE 02/09
02/12	48.40	POINT OF SALE DEBIT WAL-MART #1362	DESTIN FL 24136201	TR DATE 02/10
02/12	115.01	POINT OF SALE DEBIT TARGET T1941 PALM BEAC	LAKE PARK FL 19410104	TR DATE 02/10
02/13	23.53	POINT OF SALE DEBIT WAL-MART #2176	JUPITER FL 24217601	TR DATE 02/12
02/14	5.50	POINT OF SALE DEBIT MCDONALD'S F17474	DESTIN FL 52285801	TR DATE 02/14
02/14	12.92	POINT OF SALE DEBIT WALGREEN COMPANY MID-B	DESTIN FL A50003	TR DATE 02/14
02/14	33.14	POINT OF SALE DEBIT WAL-MART #1362	DESTIN FL 24136201	TR DATE 02/14

WITHDRAWALS/DEBITS: 83

BALANCE ACTIVITY HISTORY

DATE	BALANCE	COLLECTED BALANCE	DATE	BALANCE	COLLECTED BALANCE
01/17	561.47	561.47	02/01	1,958.70	1,958.70
01/18	506.97	506.97	02/02	3,894.92	3,884.92
01/19	2,344.49	2,344.49	02/05	2,352.57	2,352.57
01/22	1,493.76	1,493.76	02/06	2,057.18	2,057.18
01/23	5,515.07	1,115.07	02/07	1,865.87	1,865.87
01/24	5,162.04	762.04	02/08	1,703.24	1,703.24
01/25	5,162.04	5,074.04	02/09	1,668.63	1,668.63
01/26	5,108.70	5,108.70	02/12	1,315.69	1,315.69
01/29	4,643.43	4,149.43	02/13	1,272.19	1,272.19
01/30	4,561.14	4,067.14	02/14	919.88	919.88
01/31	2,014.11	2,005.11			

EXHIBIT 2
PAGE 15

SUNTRUST BANK
P O BOX 622227
ORLANDO FL 32862-2227

PAGE 1 OF 4
63/B07/0175/0/ 39
1000023829301
01/16/2007

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STATEMENT

MADELEINE J MAGILL-LOPEZ
310 SAND MYRTLE TRL
DESTIN FL 32541-3429

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ACCOUNT SUMMARY

ACCOUNT TYPE	ACCOUNT NUMBER	STATEMENT PERIOD
FREE CHECKING	1000023829301	12/15/2006 - 01/16/2007

DESCRIPTION	AMOUNT	DESCRIPTION	AMOUNT
BEGINNING BALANCE	$490.05	AVERAGE BALANCE	$3,047.99
DEPOSITS/CREDITS	$12,744.14	AVERAGE COLLECTED BALANCE	$2,506.62
CHECKS	$950.86	NUMBER OF DAYS IN STATEMENT PERIOD	33
WITHDRAWALS/DEBITS	$11,571.95		
ENDING BALANCE	$711.38		

DEPOSITS/CREDITS

DATE	AMOUNT	DESCRIPTION
12/15	40.00	DEPOSIT
12/18	240.00	DEPOSIT
12/20	200.00	DEPOSIT
12/21	1,958.65	ELECTRONIC/ACH CREDIT Scripps Florida PAYROLL 170098
12/27	4,220.00	DEPOSIT
01/05	1,953.79	ELECTRONIC/ACH CREDIT Scripps Florida PAYROLL 170098
01/09	4,131.70	DEPOSIT

DEPOSITS/CREDITS: 7 TOTAL ITEMS DEPOSITED: 4

CHECKS

CHECK NUMBER	AMOUNT	DATE PAID	CHECK NUMBER	AMOUNT	DATE PAID
1249	500.00	12/15	1254	224.08	01/05
1250	26.68	12/28	*1257	37.44	01/12
1251	116.50	12/27	1258	21.00	01/16
*1253	25.16	01/04			

CHECKS: 7 *BREAK IN CHECK SEQUENCE

WITHDRAWALS/DEBITS

DATE	AMOUNT	DESCRIPTION
12/21	7.15	POINT OF SALE DEBIT TR DATE 12/21 SOU THE HOME DEPOT 461 DESTIN FL 00000057
12/22	22.09	POINT OF SALE DEBIT TR DATE 12/22 SOU THE HOME DEPOT 662 DESTIN FL 00000004
12/22	22.12	POINT OF SALE DEBIT TR DATE 12/21 SOU THE HOME DEPOT 162 DESTIN FL 00000004
12/22	91.12	POINT OF SALE DEBIT TR DATE 12/22 WAL-MART #1362 DESTIN FL 24136201
12/26	143.95	ELECTRONIC/ACH DEBIT CINGULAR CARE CELLULAR 0017234703061

MEMBER FDIC

CONTINUED ON NEXT PAGE

SUNTRUST BANK
P O BOX 622227
ORLANDO FL 32862-2227

SUNTRUST

ACCOUNT
STATEMENT

WITHDRAWALS/DEBITS

DATE	AMOUNT	DESCRIPTION
12/26	683.11	ELECTRONIC/ACH DEBIT 1-800-200-4622 TRUEPAY 0 /24462612
12/26	8.50	CHECK CARD PURCHASE RMP DESTIN COMMO DESTIN FL
12/26	21.29	CHECK CARD PURCHASE CHUCK E CHEESES PANAMA CITY FL
12/26	24.00	CHECK CARD PURCHASE RMP DESTIN COMMO DESTIN FL
12/26	25.00	CHECK CARD PURCHASE TEXACO 00305753 PANAMA CITY FL
12/26	10.06	POINT OF SALE DEBIT TR DATE 12/24 SOU THE HOME DEPOT 162 DESTIN FL 00000003
12/26	19.54	POINT OF SALE DEBIT TR DATE 12/26 SOU THE HOME DEPOT 462 DESTIN FL 00000021
12/26	21.62	POINT OF SALE DEBIT TR DATE 12/23 SOU THE HOME DEPOT 861 DESTIN FL 00000004
12/26	23.27	POINT OF SALE DEBIT TR DATE 12/26 TARGET T2085 DESTIN DESTIN FL 20850125
12/26	25.96	POINT OF SALE DEBIT TR DATE 12/23 WALGREEN COMPANY MID-B DESTIN FL AH0003
12/26	28.39	POINT OF SALE DEBIT TR DATE 12/23 WAL-MART #1362 DESTIN FL 24136201
12/28	12.30	POINT OF SALE DEBIT TR DATE 12/28 WAL-MART #1362 DESTIN FL 24136201
12/28	54.56	POINT OF SALE DEBIT TR DATE 12/28 WAL-MART #1362 DESTIN FL 24136201
12/29	63.34	POINT OF SALE DEBIT TR DATE 12/29 WAL-MART #1362 DESTIN FL 24136201
01/02	120.50	ELECTRONIC/ACH DEBIT COX ENTERPRISES BROADBAND
01/02	21.91	CHECK CARD PURCHASE PIZZA H012124 00 DESTIN FL
01/02	36.04	CHECK CARD PURCHASE HURRICANE LANES DESTIN FL
01/02	56.00	CHECK CARD PURCHASE ANGLERS BEACHSID FORT WALTON BFL
01/02	5.83	POINT OF SALE DEBIT TR DATE 12/30 SOU THE HOME DEPOT 061 DESTIN FL 00000019
01/02	43.34	POINT OF SALE DEBIT TR DATE 12/31 WAL-MART #1362 DESTIN FL 24136201
01/02	54.16	POINT OF SALE DEBIT TR DATE 12/30 WAL-MART #1362 DESTIN FL 24136201
01/03	60.00	ATM CASH WITHDRAWAL TR DATE 01/02 DESTIN DESTIN FL I516FL410
01/03	11.10	CHECK CARD PURCHASE MCDONALD'S F6835 DESTIN FL
01/03	43.06	POINT OF SALE DEBIT TR DATE 01/03 WAL-MART #2176 JUPITER FL 24217601
01/04	102.04	ELECTRONIC/ACH DEBIT BIG 10 TIRE STOR PURCHASE 1255 DESTFL
01/04	5.33	CHECK CARD PURCHASE JUPITER JEWELRY JUPITER FL
01/05	30.00	CHECK CARD PURCHASE JIMMIES TRUCKSTO MADISON FL
01/05	67.80	CHECK CARD PURCHASE ECI*GOTOMYPC.COM 800-259-3826 CA
01/05	23.21	POINT OF SALE DEBIT TR DATE 01/04 SOU BEST BUY #799 261 DESTIN FL 00000004
01/05	29.56	POINT OF SALE DEBIT TR DATE 01/04 BARNESNOBLE 34904 Emer Destin FL A70003

CONTINUED ON NEXT PAGE

SUNTRUST BANK
P O BOX 622227
ORLANDO FL 32862-2227

PAGE 3 OF 4
63/B07/0175/0/ 39
1000023829301
01/16/2007

SUNTRUST

ACCOUNT
STATEMENT

WITHDRAWALS/DEBITS

DATE	AMOUNT	DESCRIPTION		
01/08	116.30	ELECTRONIC/ACH DEBIT GEICO	GEICO PYMT	6407742648 60DIG
01/08	82.00	ATM CASH WITHDRAWAL BANK OF AMERICA	PENSACOLA FL	TR DATE 01/06 WFLN3889
01/08	24.00	CHECK CARD PURCHASE USS ALABAMA TICK	MOBILE AL	
01/08	39.22	CHECK CARD PURCHASE GOODWILL INDUSTR	JUPITER FL	
01/08	7.44	POINT OF SALE DEBIT ROSS STORES #57432	JUPITER FL	TR DATE 01/07 00000007
01/08	13.22	POINT OF SALE DEBIT PUBLIX 4425 COMMONS DR	DESTIN FL	TR DATE 01/07 AH0003
01/08	13.69	POINT OF SALE DEBIT WAL-MART #1362	DESTIN FL	TR DATE 01/07 24136201
01/08	23.69	POINT OF SALE DEBIT PUBLIX 4425 COMMONS DR	DESTIN FL	TR DATE 01/05 AQ0003
01/08	49.89	POINT OF SALE DEBIT WAL-MART #2176	JUPITER FL	TR DATE 01/06 24217601
01/08	2.00	ATM CASH WITHDRAWAL FEE		
01/09	5,701.11	ELECTRONIC/ACH DEBIT AURORA LOAN	ALS SPEEDP	0019275023-9973
01/09	60.00	ATM CASH WITHDRAWAL DESTIN	DESTIN FL	TR DATE 01/09 I516FL410
01/09	10.95	CHECK CARD PURCHASE WHATABURGER #42	PENSACOLA FL	
01/09	30.00	CHECK CARD PURCHASE AMOCO OIL 07	JUPITER FL	
01/09	59.50	CHECK CARD PURCHASE RACEWAY917 53	GULF BREEZE FL	
01/09	10.97	POINT OF SALE DEBIT WAL-MART #1362	DESTIN FL	TR DATE 01/09 24136201
01/09	12.07	POINT OF SALE DEBIT WALGREEN COMPANY MID-B	DESTIN FL	TR DATE 01/09 AB0003
01/10	64.97	POINT OF SALE DEBIT WAL-MART #2176	JUPITER FL	TR DATE 01/10 24217601
01/11	1,610.00	ELECTRONIC/ACH DEBIT HSBC MRTG SVCS O	8008467510	
01/11	60.00	ATM CASH WITHDRAWAL BOSTON STREET	BALTIMORE MD	TR DATE 01/11 L598MD262
01/11	13.70	CHECK CARD PURCHASE WENDY'S #0108	DESTIN FL	
01/11	575.00	OVER-THE-COUNTER WITHDRAWAL		
01/12	97.11	CHECK CARD PURCHASE GULF PWR	800-967-9649 GA	
01/12	7.49	POINT OF SALE DEBIT WAL-MART #2626	LIVE OAK FL	TR DATE 01/12 24262601
01/12	30.74	POINT OF SALE DEBIT MURPHY6657@WAL-M	LIVE OAK FL	TR DATE 01/12 MURC665
01/12	44.73	POINT OF SALE DEBIT WAL-MART #2176	JUPITER FL	TR DATE 01/11 24217601
01/16	145.96	ELECTRONIC/ACH DEBIT CINGULAR CARE	CELLULAR	0017234703061
01/16	6.78	CHECK CARD PURCHASE PETLAND OF FORT	FORT WALTON BFL	
01/16	10.65	CHECK CARD PURCHASE CAPTAIN D'S #101	FT WALTON BCHFL	
01/16	18.62	CHECK CARD PURCHASE PETLAND OF FORT	FORT WALTON BFL	
01/16	29.41	CHECK CARD PURCHASE TGI FRIDAY'S	DESTIN FL	

MEMBER FDIC

CONTINUED ON NEXT PAGE

SUNTRUST BANK
P O BOX 622227
ORLANDO FL 32862-2227

SUNTRUST

ACCOUNT
STATEMENT

WITHDRAWALS/DEBITS

DATE	AMOUNT	DESCRIPTION	
01/16	35.65	CHECK CARD PURCHASE SABER A. MEXICO	FT WALTON BEAPL
01/16	109.97	CHECK CARD PURCHASE ShopNBC* 5052306	800-676-5523 MN
01/16	114.40	CHECK CARD PURCHASE RADISSON HOTELS	410-5326900 MD
01/16	6.99	POINT OF SALE DEBIT PUBLIX 4425 COMMONS DR	TR DATE 01/16 DESTIN FL AT0003
01/16	8.57	POINT OF SALE DEBIT WALGREEN COMPANY MID-B	TR DATE 01/15 DESTIN FL AK0003
01/16	12.09	POINT OF SALE DEBIT .DOLLAR GENERAL 17900 P	TR DATE 01/15 PANAMA CITY FL AM0003
01/16	23.98	POINT OF SALE DEBIT PUBLIX 421 MARY ESTHER	TR DATE 01/14 FORT WALTON BFL AR0003
01/16	37.07	POINT OF SALE DEBIT WAL-MART #1362	TR DATE 01/16 DESTIN FL 24136201
01/16	47.93	POINT OF SALE DEBIT TARGET T2085 DESTIN	TR DATE 01/13 DESTIN FL 20850081
01/16	63.59	POINT OF SALE DEBIT SOU BEST BUY #799 930	TR DATE 01/13 DESTIN FL 00000006
01/16	123.15	POINT OF SALE DEBIT WAL-MART #1362	TR DATE 01/13 DESTIN FL 24136201

WITHDRAWALS/DEBITS: 77

BALANCE ACTIVITY HISTORY

DATE	BALANCE	COLLECTED BALANCE	DATE	BALANCE	COLLECTED BALANCE
12/15	30.05	30.05	01/02	4,860.37	4,860.37
12/18	270.05	44.05	01/03	4,746.21	4,746.21
12/19	270.05	206.05	01/04	4,613.68	4,613.68
12/20	470.05	255.05	01/05	6,192.72	6,192.72
12/21	2,421.55	2,221.55	01/08	5,821.27	5,821.27
12/22	2,286.22	2,280.22	01/09	4,068.37	-62.63
12/26	1,251.53	1,251.53	01/10	4,003.40	-127.60
12/27	5,355.03	1,135.03	01/11	1,744.70	1,662.70
12/28	5,261.49	1,041.49	01/12	1,527.19	1,527.19
12/29	5,198.15	5,110.15	01/16	711.38	711.38

SUNTRUST BANK
P O BOX 622227
ORLANDO FL 32862-2227

PAGE 1 OF 3
63/B07/0175/0/ 39
1000023829301
12/14/2006

SUNTRUST

ACCOUNT
STATEMENT

MADELEINE J MAGILL-LOPEZ
310 SAND MYRTLE TRL
DESTIN FL 32541-3429

QUESTIONS? PLEASE CALL
1-800-786-8787

PLEASE NOTE THAT EFFECTIVE FEBRUARY 1, 2007, THE DEPOSITED ITEM RETURNED FEE WILL BE $10 FOR EACH DOMESTIC ITEM.
THE HOLD MAIL FEE WILL INCREASE FROM A RATE OF $15 TO $25 PER MONTH, EFFECTIVE FEBRUARY 1, 2007.

ACCOUNT SUMMARY

ACCOUNT TYPE	ACCOUNT NUMBER	STATEMENT PERIOD
FREE CHECKING	1000023829301	11/15/2006 - 12/14/2006

DESCRIPTION	AMOUNT	DESCRIPTION	AMOUNT
BEGINNING BALANCE	$628.89	AVERAGE BALANCE	$1,326.16
DEPOSITS/CREDITS	$10,517.30	AVERAGE COLLECTED BALANCE	$1,029.89
CHECKS	$785.67	NUMBER OF DAYS IN STATEMENT PERIOD	30
WITHDRAWALS/DEBITS	$9,870.47		
ENDING BALANCE	$490.05		

DEPOSITS/CREDITS

DATE	AMOUNT	DESCRIPTION
11/22	1,958.65	ELECTRONIC/ACH CREDIT Scripps Florida PAYROLL 170098
11/27	5,600.00	DEPOSIT
12/08	1,958.65	ELECTRONIC/ACH CREDIT Scripps Florida PAYROLL 170098
12/11	1,000.00	DEPOSIT

DEPOSITS/CREDITS: 4 TOTAL ITEMS DEPOSITED: 1

CHECKS

CHECK NUMBER	AMOUNT	DATE PAID	CHECK NUMBER	AMOUNT	DATE PAID
1241	28.47	11/15	1246	97.39	12/13
*1243	115.50	11/20	1247	450.00	12/07
1244	10.56	12/14	1248	12.10	12/13
1245	71.65	12/14			

CHECKS: 7 *BREAK IN CHECK SEQUENCE

WITHDRAWALS/DEBITS

DATE	AMOUNT	DESCRIPTION
11/15	140.41	ELECTRONIC/ACH DEBIT CINGULAR CARE CELLULAR 0017234703061
11/15	18.45	POINT OF SALE DEBIT TR DATE 11/15 SOU USPS 1169180420062 JUPITER FL 00000094
11/16	20.00	ATM CASH WITHDRAWAL TR DATE 11/16 JUPITER JUPITER FL I199FL439
11/16	20.22	POINT OF SALE DEBIT TR DATE 11/15 TJ TJ MAXX JUPITER FL AT0003
11/17	8.91	CHECK CARD PURCHASE APL*ITUNES 866-712-7753 CA
11/17	30.00	CHECK CARD PURCHASE AMOCO OIL 07 JUPITER FL
11/17	14.90	POINT OF SALE DEBIT TR DATE 11/16 SDI #576-4685 DESTIN FL 48075601

MEMBER FDIC

CONTINUED ON NEXT PAGE

SUNTRUST BANK
P O BOX 622227
ORLANDO FL 32862-2227

63/B07/0175/0/ 39
1000023829301
12/14/2006

SUNTRUST

ACCOUNT STATEMENT

WITHDRAWALS/DEBITS

DATE	AMOUNT	DESCRIPTION	
11/17	26.91	POINT OF SALE DEBIT MURPHY6657@WAL-M	TR DATE 11/17 LIVE OAK FL MURC665
11/17	172.96	POINT OF SALE DEBIT WAL-MART #2626	TR DATE 11/17 LIVE OAK FL 24262601
11/20	32.00	NSF PAID ITEMS PENALTY	
11/20	49.31	POINT OF SALE DEBIT WAL-MART #1362	TR DATE 11/18 DESTIN FL 24136201
11/21	32.00	NSF PAID ITEMS PENALTY	
11/21	46.15	CHECK CARD PURCHASE OLD TIME POTTERY	DESTIN FL
11/27	202.25	ATM CASH WITHDRAWAL 1STNATB&T	TR DATE 11/25 FTWALTONBCH FL 00010186
11/27	34.27	CHECK CARD PURCHASE PAYPAL *GARCIAAV	402-935-7733 CA
11/27	113.70	CHECK CARD PURCHASE MONTEREY BAY AQU	MONTEREY CA
11/27	57.21	POINT OF SALE DEBIT WAL-MART #1362	TR DATE 11/26 DESTIN FL 24136201
11/27	99.83	POINT OF SALE DEBIT OFFICE DEPOT OFFICE DE	TR DATE 11/26 DESTIN FL A70003
11/27	2.00	ATM CASH WITHDRAWAL FEE	
11/29	5,701.11	ELECTRONIC/ACH DEBIT AURORA LOAN ALS SPEEDP	0019275023-4589
11/29	27.00	CHECK CARD PURCHASE FORT DRUM CITGO	OKEECHOBEE FL
11/29	29.44	CHECK CARD PURCHASE AMOCO OIL 06	QUINCY FL
12/01	24.96	POINT OF SALE DEBIT MURPHY6657@WAL-M	TR DATE 12/01 LIVE OAK FL MURC665
12/01	25.27	POINT OF SALE DEBIT WAL-MART #2626	TR DATE 12/01 LIVE OAK FL 24262601
12/04	12.01	CHECK CARD PURCHASE AMOCO OIL 07	JUPITER FL
12/04	70.67	CHECK CARD PURCHASE LONGHORN #082	DESTIN FL
12/04	23.23	POINT OF SALE DEBIT WAL-MART #1362	TR DATE 12/04 DESTIN FL 24136201
12/04	25.96	POINT OF SALE DEBIT WALGREEN COMPANY MID-B	TR DATE 12/04 DESTIN FL AV0003
12/04	35.10	POINT OF SALE DEBIT WAL-MART #1362	TR DATE 12/03 DESTIN FL 24136201
12/04	42.39	POINT OF SALE DEBIT SOU BEST BUY #799 430	TR DATE 12/02 DESTIN FL 00000003
12/04	59.27	POINT OF SALE DEBIT SOU THE HOME DEPOT 261	TR DATE 12/02 DESTIN FL 00000018
12/04	105.86	POINT OF SALE DEBIT WAL-MART #1362	TR DATE 12/02 DESTIN FL 24136201
12/05	21.91	CHECK CARD PURCHASE SHELL OIL 91002	PENSACOLA FL
12/05	30.01	CHECK CARD PURCHASE SHELL OIL 91002	PENSACOLA FL
12/05	34.44	CHECK CARD PURCHASE SABER A. MEXICO	FT WALTON BEAFL
12/05	67.80	CHECK CARD PURCHASE ECI*GOTOMYPC.COM	888-259-3826 CA
12/05	48.16	POINT OF SALE DEBIT WAL-MART #1362	TR DATE 12/05 DESTIN FL 24136201
12/07	28.40	POINT OF SALE DEBIT SOU USPS 1169180420261	TR DATE 12/06 JUPITER FL 00000095
12/07	34.67	POINT OF SALE DEBIT WAL-MART #2176	TR DATE 12/06 JUPITER FL 24217601

CONTINUED ON NEXT PAGE

SUNTRUST BANK
P O BOX 622227
ORLANDO FL 32862-2227

PAGE 3 OF 3
63/B07/0175/0/ 39
1000023829301
12/14/2006

SUNTRUST

ACCOUNT
STATEMENT

WITHDRAWALS/DEBITS

DATE	AMOUNT	DESCRIPTION	
12/08	64.00	CHECK CARD PURCHASE RACEWAY861 42	COTTONDALE FL
12/08	20.22	POINT OF SALE DEBIT PUBLIX 5500 MILITARY T	TR DATE 12/08 JUPITER FL AJ0003
12/08	30.00	POINT OF SALE DEBIT PUBLIX 5500 MILITARY T	TR DATE 12/08 JUPITER FL AB0003
12/11	359.82	ELECTRONIC/ACH DEBIT FPL DIRECT DEBIT ELEC PYMT	1430095354 TELV
12/11	1,610.38	ELECTRONIC/ACH DEBIT HSBC MRTG SVCS O 8008467510	
12/11	75.00	CHECK CARD PURCHASE AMOCO OIL 07	JUPITER FL
12/11	17.02	POINT OF SALE DEBIT TJ TJ MAXX	TR DATE 12/09 PALM BEACH GAFL AK0003
12/11	74.45	POINT OF SALE DEBIT SOU ROSS STORES #57462	TR DATE 12/08 JUPITER FL 00000007
12/13	20.43	POINT OF SALE DEBIT PUBLIX 5500 MILITARY T	TR DATE 12/13 JUPITER FL AS0003
12/14	30.01	POINT OF SALE DEBIT MURPHY6657@WAL-M	TR DATE 12/14 LIVE OAK FL MURC665

WITHDRAWALS/DEBITS: 49

BALANCE ACTIVITY HISTORY

DATE	BALANCE	COLLECTED BALANCE	DATE	BALANCE	COLLECTED BALANCE
11/15	441.56	441.56	12/01	1,114.31	1,114.31
11/16	401.34	401.34	12/04	739.82	739.82
11/17	147.66	147.66	12/05	537.50	537.50
11/20	-49.15	-49.15	12/07	24.43	24.43
11/21	-127.30	-127.30	12/08	1,868.86	1,868.86
11/22	1,831.35	1,831.35	12/11	732.19	732.19
11/27	6,922.09	2,522.09	12/13	602.27	602.27
11/29	1,164.54	1,076.54	12/14	490.05	490.05
11/30	1,164.54	1,164.54			

MEMBER FDIC

DOCKET NUMBER 126-3

L. Scott Keehn, SBN 61691
Leslie F. Keehn, SBN 199153
KEEHN & ASSOCIATES
A Professional Corporation
402 West Broadway, Suite 1210
San Diego, California 92101
Telephone: (619) 400-2200

Attorneys for **Petitioning Creditors**

UNITED STATES BANKRUPTCY COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

In Re: FRANCIS J. LOPEZ, Alleged Debtor.	Case No. 05-05926-PBINV **DECLARATION OF CYNTHIA K. LAY** **[BIFURCATED PHASE II]** Date: January 28, 2008 Time: 10:30 a.m. Judge: The Honorable Peter W. Bowie Ctrm: 4

I, Cynthia K. Lay, declare as follows:

1. I am a paralegal with the firm of Keehn & Associates, APC, the attorneys of record for the Petitioning Creditors. I make the following declaration based upon facts within my first hand knowledge, acquired during the performance of activities that were within the course and scope of Keehn & Associates, APC's engagement on behalf of the Petitioning Creditors.

2. On or about January 22, 2008, I was asked to locate the Median Family Income by Family Size for the State of Florida.

3. I followed those instructions and reviewed the U.S. Census Bureau data available for cases filed between October 15, 2007, and December 31, 2007, inclusive, as provided in the

KEEHN & ASSOCIATES, APC
ATTORNEYS AND COUNSELORS AT LAW
402 WEST BROADWAY, SUITE 1210
SAN DIEGO, CALIFORNIA 92101
TELEPHONE (619) 400-2200 · FACSIMILE (619) 400-2201

Means Testing section of the U.S. Trustee Program's website.

4. A printout of the Median Family Income by Family Size is attached hereto marked Exhibit 1 and incorporated herein by this reference. The available data for the State of Florida is highlighted in yellow.

5. On or about January 22, 2008, I was asked to locate the Median Family Income by the Number of Earners in Family for the State of Florida.

6. I followed those instructions and reviewed the U.S. Census Bureau data available as provided in the State Median Income section of the U.S. Census Bureau's website.

7. A printout of the Median Family Income by Number of Earners in Family is attached hereto marked Exhibit 2 and incorporated herein by this reference. The available data for the State of Florida is highlighted in yellow.

8. On or about January 22, 2008, I was asked to create a chart outlining the deposit history of the bank account maintained by the Debtor's wife, Madeleine J. Magill-Lopez — SunTrust Bank Account No. 1000023829301 (the "Account"). The chart was to provide a detailed deposit history from December 14, 2006, through June 15, 2007, as well as the annualized amount of the total deposits.

9. I followed those instructions and reviewed the Account's bank statements from December 14, 2006, through June 15, 2007, copies of which are attached as Exhibit 2 to the Declaration of Timothy P. Dillon filed concurrently herewith.

10. After analyzing the Account's bank statements, I compiled the information contained therein and created the chart titled "SunTrust Bank Account Deposit Summary", a copy of which is attached hereto marked Exhibit 3 and incorporated herein by this reference.

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ATTORNEYS AND COUNSELORS AT LAW
402 WEST BROADWAY, SUITE 1210
SAN DIEGO, CALIFORNIA 92101
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11. I have first-hand knowledge of all of the foregoing, and if called as a witness could, and would, testify in the manner herein above set forth.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct, and that this Declaration was executed this 22nd day of January, 2008, at San Diego, California.

//s// Cynthia K. Lay
CYNTHIA K. LAY

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EXHIBIT 1

U.S. Department of Justice
U.S. Trustee Program
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Census Bureau Median Family Income By Family Size

(Cases Filed Between October 15, 2007, and December 31, 2007, Inclusive)

The following table provides median family income data reproduced in a format designed for ease of use in completing Bankruptcy Forms 22A and 22C.

The **State Median Family Income by Family Size** data is available for download in MS Excel format. [XLS - 27 KB]

STATE	1 EARNER	FAMILY SIZE 2 PEOPLE	3 PEOPLE	4 PEOPLE *
ALABAMA	$35,190	$43,674	$49,688	$60,298
ALASKA	$43,766	$66,125	$70,378	$71,781
ARIZONA	$39,811	$51,681	$58,127	$65,050
ARKANSAS	$31,633	$40,604	$47,588	$52,185
CALIFORNIA	$45,518	$60,032	$64,766	$74,801
COLORADO	$42,979	$60,577	$64,883	$75,775
CONNECTICUT	$53,876	$66,972	$76,786	$93,821
DELAWARE	$43,149	$54,105	$64,840	$78,321
DISTRICT OF COLUMBIA	$38,410	$65,913	$65,913	$71,571
FLORIDA	$38,927	$49,234	$55,347	$65,024
GEORGIA	$38,086	$50,001	$57,254	$66,711
HAWAII	$45,947	$58,555	$69,572	$84,472
IDAHO	$36,313	$46,876	$53,194	$58,066
ILLINOIS	$43,436	$54,979	$64,763	$75,484
INDIANA	$38,293	$49,642	$55,917	$67,787
IOWA	$36,713	$49,180	$57,688	$67,792
KANSAS	$37,525	$51,522	$56,467	$67,897
KENTUCKY	$36,070	$42,278	$50,663	$60,202
LOUISIANA	$33,391	$41,500	$50,785	$60,161
MAINE	$37,035	$46,378	$58,225	$63,501
MARYLAND	$51,141	$66,190	$78,119	$94,017
MASSACHUSETTS	$51,176	$61,293	$75,801	$89,347
MICHIGAN	$41,929	$50,441	$60,085	$72,591
MINNESOTA	$43,965	$58,705	$68,737	$81,477
MISSISSIPPI	$29,582	$37,841	$42,380	$52,992
MISSOURI	$36,702	$47,589	$54,914	$63,274
MONTANA	$37,889	$46,748	$52,111	$60,576
NEBRASKA	$36,179	$51,231	$58,055	$68,917
NEVADA	$44,378	$56,258	$63,231	$66,095
NEW HAMPSHIRE	$50,086	$61,746	$70,722	$87,396
NEW JERSEY	$54,596	$63,026	$80,999	$94,441
NEW MEXICO	$34,703	$47,517	$47,517	$52,034
NEW YORK	$43,352	$52,891	$62,882	$75,513
NORTH CAROLINA	$35,267	$47,895	$53,961	$61,420
NORTH DAKOTA	$35,718	$48,511	$59,607	$67,560
OHIO	$39,056	$48,332	$58,130	$68,579
OKLAHOMA	$33,597	$44,942	$47,381	$55,031
OREGON	$41,284	$51,762	$58,033	$64,832

EXHIBIT 1
PAGE 1

PENNSYLVANIA	$41,971	$49,226	$61,733	$74,072
RHODE ISLAND	$45,776	$58,108	$63,135	$78,189
SOUTH CAROLINA	$34,211	$45,233	$51,525	$59,663
SOUTH DAKOTA	$31,944	$48,051	$60,170	$63,508
TENNESSEE	$35,373	$44,764	$51,860	$60,143
TEXAS	$35,280	$49,933	$52,313	$59,808
UTAH	$44,458	$50,155	$56,671	$63,586
VERMONT	$41,171	$52,137	$60,113	$67,884
VIRGINIA	$44,780	$59,423	$67,788	$78,413
WASHINGTON	$46,700	$58,584	$66,252	$75,140
WEST VIRGINIA	$36,135	$38,505	$49,043	$55,920
WISCONSIN	$40,378	$52,793	$63,628	$72,495
WYOMING	$34,946	$51,853	$58,620	$71,559

** Add $6,900 for each individual in excess of 4.*

COMMONWEALTH OR U.S. TERRITORY	1 EARNER	FAMILY SIZE		
		2 PEOPLE	3 PEOPLE	4 PEOPLE *
GUAM	$34,495	$41,244	$47,000	$56,877
NORTHERN MARIANA ISLANDS	$23,164	$23,164	$26,950	$39,639
PUERTO RICO	$19,189	$19,189	$21,640	$25,404
VIRGIN ISLANDS	$27,368	$32,895	$35,072	$38,426

** Add $6,900 for each individual in excess of 4.*

Last Update: September 20, 2007 10:52 AM
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EXHIBIT 1
PAGE 2

EXHIBIT 2

U.S. Census Bureau

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Income

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Income - Median Family Income in the Past 12 Months by Number of Earners in Family

B19121. MEDIAN FAMILY INCOME IN THE PAST 12 MONTHS (IN 2006 INFLATION-ADJUSTED DOLLARS) BY N
Data Set: 2006 American Community Survey
Survey: 2006 American Community Survey, 2006 Puerto Rico Community Survey
NOTE. For information on confidentiality protection, sampling error, nonsampling error, and definitions, see Survey I

Alabama	Estimate	Margin of Error
Total:	49,207	+/-747
No earners (dollars)	23,318	+/-975
1 earner (dollars)	35,190	+/-713
2 earners (dollars)	66,167	+/-956
3 or more earners (dollars)	81,611	+/-2,450

Alaska	Estimate	Margin of Error
Total:	69,872	+/-2,371
No earners (dollars)	31,234	+/-6,009
1 earner (dollars)	43,766	+/-3,026
2 earners (dollars)	82,767	+/-2,542
3 or more earners (dollars)	96,621	+/-4,831

Arizona	Estimate	Margin of Error
Total:	55,709	+/-646
No earners (dollars)	33,474	+/-844
1 earner (dollars)	39,811	+/-742
2 earners (dollars)	70,607	+/-951
3 or more earners (dollars)	88,063	+/-2,028

Arkansas	Estimate	Margin of Error
Total:	45,093	+/-813
No earners (dollars)	23,902	+/-819
1 earner (dollars)	31,633	+/-825
2 earners (dollars)	57,586	+/-1,078
3 or more earners (dollars)	78,082	+/-3,124

California	Estimate	Margin of Error
Total:	64,563	+/-413
No earners (dollars)	28,978	+/-665
1 earner (dollars)	45,518	+/-427
2 earners (dollars)	81,955	+/-483
3 or more earners (dollars)	93,805	+/-1,060

Colorado	Estimate	Margin of Error
Total:	64,614	+/-975
No earners (dollars)	32,858	+/-1,606
1 earner (dollars)	42,979	+/-1,305
2 earners (dollars)	78,039	+/-942
3 or more earners (dollars)	93,090	+/-2,027

EXHIBIT 2
PAGE 1

Connecticut	Estimate	Margin of Error
Total:	78,154	+/-951
No earners (dollars)	33,246	+/-1,774
1 earner (dollars)	53,876	+/-2,025
2 earners (dollars)	91,520	+/-1,311
3 or more earners (dollars)	110,433	+/-2,779

Delaware	Estimate	Margin of Error
Total:	62,623	+/-2,217
No earners (dollars)	35,254	+/-2,003
1 earner (dollars)	43,149	+/-1,979
2 earners (dollars)	78,134	+/-2,087
3 or more earners (dollars)	105,109	+/-4,705

District of Columbia	Estimate	Margin of Error
Total:	61,105	+/-4,029
No earners (dollars)	14,503	+/-2,043
1 earner (dollars)	38,410	+/-2,629
2 earners (dollars)	100,299	+/-7,186
3 or more earners (dollars)	103,461	+/-13,029

Florida	Estimate	Margin of Error
Total:	54,445	+/-402
No earners (dollars)	33,224	+/-610
1 earner (dollars)	38,927	+/-567
2 earners (dollars)	68,687	+/-831
3 or more earners (dollars)	84,496	+/-1,117

Georgia	Estimate	Margin of Error
Total:	56,112	+/-609
No earners (dollars)	22,971	+/-884
1 earner (dollars)	38,086	+/-717
2 earners (dollars)	71,608	+/-676
3 or more earners (dollars)	84,581	+/-1,906

Hawaii	Estimate	Margin of Error
Total:	70,277	+/-1,454
No earners (dollars)	33,937	+/-2,938
1 earner (dollars)	45,947	+/-2,167
2 earners (dollars)	81,400	+/-2,060
3 or more earners (dollars)	111,450	+/-3,986

Idaho	Estimate	Margin of Error
Total:	51,640	+/-1,028
No earners (dollars)	31,022	+/-1,673
1 earner (dollars)	36,313	+/-1,261
2 earners (dollars)	59,689	+/-1,152
3 or more earners (dollars)	76,533	+/-2,991

Illinois	Estimate	Margin of Error
Total:	63,121	+/-529
No earners (dollars)	28,815	+/-582
1 earner (dollars)	43,436	+/-891

EXHIBIT 2
PAGE 2

2 earners (dollars)	77,370	+/-570
3 or more earners (dollars)	94,681	+/-1,213

Indiana	Estimate	Margin of Error
Total:	55,781	+/-459
No earners (dollars)	29,262	+/-808
1 earner (dollars)	38,293	+/-814
2 earners (dollars)	68,860	+/-783
3 or more earners (dollars)	85,553	+/-1,324

Iowa	Estimate	Margin of Error
Total:	55,735	+/-577
No earners (dollars)	29,866	+/-875
1 earner (dollars)	36,713	+/-783
2 earners (dollars)	65,175	+/-779
3 or more earners (dollars)	81,340	+/-1,533

Kansas	Estimate	Margin of Error
Total:	56,857	+/-698
No earners (dollars)	30,779	+/-1,112
1 earner (dollars)	37,525	+/-1,174
2 earners (dollars)	68,196	+/-1,152
3 or more earners (dollars)	84,977	+/-2,389

Kentucky	Estimate	Margin of Error
Total:	48,726	+/-682
No earners (dollars)	21,412	+/-632
1 earner (dollars)	36,070	+/-796
2 earners (dollars)	64,073	+/-950
3 or more earners (dollars)	84,425	+/-2,108

Louisiana	Estimate	Margin of Error
Total:	48,261	+/-794
No earners (dollars)	21,300	+/-751
1 earner (dollars)	33,391	+/-914
2 earners (dollars)	65,749	+/-1,221
3 or more earners (dollars)	80,199	+/-1,821

Maine	Estimate	Margin of Error
Total:	52,793	+/-973
No earners (dollars)	26,574	+/-1,639
1 earner (dollars)	37,035	+/-1,194
2 earners (dollars)	65,979	+/-973
3 or more earners (dollars)	83,337	+/-2,550

Maryland	Estimate	Margin of Error
Total:	77,839	+/-851
No earners (dollars)	34,041	+/-1,851
1 earner (dollars)	51,141	+/-739
2 earners (dollars)	93,035	+/-1,158
3 or more earners (dollars)	110,942	+/-2,334

Massachusetts	Estimate	Margin of Error
Total:	74,463	+/-753

EXHIBIT 2
PAGE 3

No earners (dollars)	27,830	+/-1,096
1 earner (dollars)	51,176	+/-954
2 earners (dollars)	90,473	+/-1,108
3 or more earners (dollars)	105,823	+/-1,528
Michigan	Estimate	Margin of Error
Total:	57,996	+/-535
No earners (dollars)	30,871	+/-511
1 earner (dollars)	41,929	+/-495
2 earners (dollars)	73,204	+/-697
3 or more earners (dollars)	90,645	+/-1,236
Minnesota	Estimate	Margin of Error
Total:	66,809	+/-485
No earners (dollars)	33,481	+/-965
1 earner (dollars)	43,965	+/-1,080
2 earners (dollars)	77,679	+/-760
3 or more earners (dollars)	93,031	+/-1,290
Mississippi	Estimate	Margin of Error
Total:	42,805	+/-1,008
No earners (dollars)	18,143	+/-820
1 earner (dollars)	29,582	+/-900
2 earners (dollars)	59,811	+/-1,443
3 or more earners (dollars)	76,806	+/-2,066
Missouri	Estimate	Margin of Error
Total:	53,026	+/-561
No earners (dollars)	28,566	+/-958
1 earner (dollars)	36,702	+/-680
2 earners (dollars)	66,089	+/-706
3 or more earners (dollars)	85,254	+/-1,902
Montana	Estimate	Margin of Error
Total:	51,006	+/-829
No earners (dollars)	30,514	+/-2,204
1 earner (dollars)	37,889	+/-1,693
2 earners (dollars)	59,862	+/-1,568
3 or more earners (dollars)	73,223	+/-3,027
Nebraska	Estimate	Margin of Error
Total:	56,940	+/-649
No earners (dollars)	30,690	+/-2,013
1 earner (dollars)	36,179	+/-991
2 earners (dollars)	65,716	+/-918
3 or more earners (dollars)	81,246	+/-2,514
Nevada	Estimate	Margin of Error
Total:	61,466	+/-837
No earners (dollars)	31,443	+/-2,145
1 earner (dollars)	44,378	+/-1,787
2 earners (dollars)	73,914	+/-1,581
3 or more earners (dollars)	90,914	+/-2,383

EXHIBIT 2
PAGE 4

New Hampshire	Estimate	Margin of Error
Total:	71,176	+/-1,111
No earners (dollars)	31,664	+/-2,407
1 earner (dollars)	50,086	+/-1,956
2 earners (dollars)	81,729	+/-1,654
3 or more earners (dollars)	99,643	+/-3,656

New Jersey	Estimate	Margin of Error
Total:	77,875	+/-649
No earners (dollars)	33,520	+/-1,146
1 earner (dollars)	54,596	+/-1,110
2 earners (dollars)	93,855	+/-961
3 or more earners (dollars)	111,680	+/-1,609

New Mexico	Estimate	Margin of Error
Total:	48,199	+/-1,352
No earners (dollars)	27,299	+/-2,849
1 earner (dollars)	34,703	+/-1,579
2 earners (dollars)	62,995	+/-1,790
3 or more earners (dollars)	77,087	+/-3,271

New York	Estimate	Margin of Error
Total:	62,138	+/-364
No earners (dollars)	25,014	+/-594
1 earner (dollars)	43,352	+/-771
2 earners (dollars)	80,015	+/-612
3 or more earners (dollars)	100,049	+/-1,295

North Carolina	Estimate	Margin of Error
Total:	52,336	+/-481
No earners (dollars)	26,183	+/-644
1 earner (dollars)	35,267	+/-543
2 earners (dollars)	66,783	+/-599
3 or more earners (dollars)	82,339	+/-1,443

North Dakota	Estimate	Margin of Error
Total:	55,385	+/-1,467
No earners (dollars)	26,943	+/-2,104
1 earner (dollars)	35,718	+/-1,839
2 earners (dollars)	64,672	+/-1,838
3 or more earners (dollars)	81,592	+/-6,708

Ohio	Estimate	Margin of Error
Total:	56,148	+/-388
No earners (dollars)	28,248	+/-502
1 earner (dollars)	39,056	+/-773
2 earners (dollars)	70,775	+/-526
3 or more earners (dollars)	88,229	+/-1,217

Oklahoma	Estimate	Margin of Error
Total:	47,955	+/-776
No earners (dollars)	24,963	+/-953
1 earner (dollars)	33,597	+/-996
2 earners (dollars)	62,397	+/-1,086

3 or more earners (dollars)	76,293	+/-2,196
Oregon	Estimate	Margin of Error
Total:	55,923	+/-757
No earners (dollars)	32,439	+/-1,221
1 earner (dollars)	41,284	+/-874
2 earners (dollars)	69,046	+/-1,532
3 or more earners (dollars)	83,360	+/-2,076
Pennsylvania	Estimate	Margin of Error
Total:	58,148	+/-361
No earners (dollars)	27,837	+/-493
1 earner (dollars)	41,971	+/-391
2 earners (dollars)	72,551	+/-604
3 or more earners (dollars)	91,318	+/-972
Rhode Island	Estimate	Margin of Error
Total:	64,733	+/-1,971
No earners (dollars)	26,347	+/-2,873
1 earner (dollars)	45,776	+/-2,664
2 earners (dollars)	77,826	+/-2,170
3 or more earners (dollars)	99,603	+/-4,241
South Carolina	Estimate	Margin of Error
Total:	50,334	+/-657
No earners (dollars)	24,975	+/-910
1 earner (dollars)	34,211	+/-845
2 earners (dollars)	65,545	+/-810
3 or more earners (dollars)	82,498	+/-3,253
South Dakota	Estimate	Margin of Error
Total:	53,806	+/-936
No earners (dollars)	30,192	+/-2,191
1 earner (dollars)	31,944	+/-1,653
2 earners (dollars)	60,580	+/-1,227
3 or more earners (dollars)	77,577	+/-2,647
Tennessee	Estimate	Margin of Error
Total:	49,804	+/-564
No earners (dollars)	22,087	+/-719
1 earner (dollars)	35,373	+/-789
2 earners (dollars)	64,818	+/-778
3 or more earners (dollars)	82,531	+/-1,666
Texas	Estimate	Margin of Error
Total:	52,355	+/-275
No earners (dollars)	24,444	+/-546
1 earner (dollars)	35,280	+/-363
2 earners (dollars)	68,247	+/-720
3 or more earners (dollars)	79,004	+/-1,096
Utah	Estimate	Margin of Error
Total:	58,141	+/-835
No earners (dollars)	33,987	+/-1,631

EXHIBIT 2
PAGE 6

1 earner (dollars)	44,458	+/-2,323
2 earners (dollars)	62,186	+/-909
3 or more earners (dollars)	85,576	+/-2,575
Vermont	Estimate	Margin of Error
Total:	58,163	+/-1,411
No earners (dollars)	28,817	+/-1,561
1 earner (dollars)	41,171	+/-2,603
2 earners (dollars)	67,335	+/-2,540
3 or more earners (dollars)	86,632	+/-3,364
Virginia	Estimate	Margin of Error
Total:	66,886	+/-623
No earners (dollars)	31,644	+/-1,215
1 earner (dollars)	44,780	+/-973
2 earners (dollars)	80,992	+/-840
3 or more earners (dollars)	101,630	+/-1,386
Washington	Estimate	Margin of Error
Total:	63,705	+/-650
No earners (dollars)	35,776	+/-905
1 earner (dollars)	46,700	+/-1,017
2 earners (dollars)	77,988	+/-949
3 or more earners (dollars)	92,904	+/-2,014
West Virginia	Estimate	Margin of Error
Total:	44,012	+/-823
No earners (dollars)	23,658	+/-915
1 earner (dollars)	36,135	+/-907
2 earners (dollars)	61,201	+/-1,367
3 or more earners (dollars)	79,788	+/-3,221
Wisconsin	Estimate	Margin of Error
Total:	60,634	+/-462
No earners (dollars)	31,089	+/-900
1 earner (dollars)	40,378	+/-621
2 earners (dollars)	71,295	+/-597
3 or more earners (dollars)	88,289	+/-1,461
Wyoming	Estimate	Margin of Error
Total:	57,505	+/-1,708
No earners (dollars)	35,760	+/-2,849
1 earner (dollars)	34,946	+/-2,823
2 earners (dollars)	67,495	+/-1,940
3 or more earners (dollars)	87,764	+/-4,642
Puerto Rico	Estimate	Margin of Error
Total:	20,425	+/-414
No earners (dollars)	8,243	+/-266
1 earner (dollars)	19,189	+/-470
2 earners (dollars)	38,422	+/-946
3 or more earners (dollars)	49,083	+/-1,337

Source: U.S. Census Bureau, 2006 American Community Survey

EXHIBIT 2
PAGE 7

Data are based on a sample and are subject to sampling variability. The degree of uncertainty for an estimate arising
Accuracy of the Data). The effect of nonsampling error is not represented in these tables."
While the 2006 American Community Survey (ACS) data generally reflect the December 2005 Office of Managemen
Explanation of Symbols:
1. An '**' entry in the margin of error column indicates that either no sample observations or too few sample observat
2. An '-' entry in the estimate column indicates that either no sample observations or too few sample observations we
3. An '-' following a median estimate means the median falls in the lowest interval of an open-ended distribution.
4. An '+' following a median estimate means the median falls in the upper interval of an open-ended distribution.
5. An '***' entry in the margin of error column indicates that the median falls in the lowest interval or upper interval of
6. An '*****' entry in the margin of error column indicates that the estimate is controlled. A statistical test for sampling

Contact the Demographic Call Center Staff at 301-763-2422 or 1-866-758-1060 (toll free) or visit ask.census.gov for further information on Income Data.

Source: U.S. Census Bureau, Housing and Household Economic Statistics Division

EXHIBIT 2
PAGE 8

EXHIBIT 3

SUNTRUST BANK ACCOUNT DEPOSIT SUMMARY

MONTH	DEPOSITS MADE							TOTAL
6/15/2007	$ 1,953.79	$ 364.47	$ 5,100.00	$ 1,953.79				$ 9,372.05
5/14/2007	$ 500.00	$ 1,953.79	$ 3,120.00	$ 1,700.00	$ 1,953.79			$ 9,227.58
4/13/2007	$ 1,953.79	$ 1,001.08	$ 4,300.00	$ 2,045.52	$ 4,400.00	$ 1,953.79		$ 15,654.18
3/15/2007	$ 1,953.79	$ 1,953.79	$ 2,000.00					$ 5,907.58
2/14/2007	$ 1,953.79	$ 4,400.00	$ 495.05	$ 1,953.79				$ 8,802.63
1/16/2007	$ 40.00	$ 240.00	$ 200.00	$ 1,958.65	$ 4,220.00	$ 1,953.79	$ 4,131.70	$ 12,744.14
12/14/2006	$ 1,958.65	$ 5,600.00	$ 1,958.65	$ 1,000.00				$ 10,517.30
TOTAL DEPOSITS FROM 12/14/2006 - 6/15/2007								**$ 72,225.46**
ANNUALIZED TOTAL								$ 123,822.15

EXHIBIT 3
PAGE 1

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DOCKET NUMBER 126-4

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UNITED STATES BANKRUPTCY COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

In Re: FRANCIS J. LOPEZ, Alleged Debtor.	Case No. 05-05926-PBINV **EVIDENTIARY OBJECTIONS TO DECLARATION OF FRANCIS LOPEZ** **[BIFURCATED PHASE II]** Date: January 28, 2008 Time: 10:30 a.m. Judge: The Honorable Peter W. Bowie Ctrm: 4

TO: THE HONORABLE PETER W. BOWIE, UNITED STATES BANKRUPTCY JUDGE:

Petitioning Creditors respectfully submit the following evidentiary objections, and hereby move to strike the specified portions of the "Declaration of Francis Lopez" submitted in support of his "Opposition of Alleged Debtor to Motion for Terminating Sanctions" (the "Lopez Declaration").

REQUEST FOR RULING ON OBJECTIONS AND MOTION TO STRIKE

Petitioning Creditors respectfully request that this Court issue rulings on the following evidentiary objections and motion to strike prior to ruling on the merits of their Motion.

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EVIDENTIARY OBJECTIONS

Pursuant to the Federal Rules of Evidence ("FRE"), made applicable herein by Rule 9017 of the Federal Rules of Bankruptcy Procedure, Paragraph 2, lines 8 - 9, of the Lopez Declaration should be stricken:

TESTIMONY	OBJECTIONS
Paragraph 2, lines 8 - 9: "I did not make the sanctions payment because I was unable to come up with the full amount of sanctions in Mid-December."	**Lack of Foundation.** Lopez fails to identify any of the facts or circumstances which caused him to conclude that he would be unable to pay the sanctions on or before the 12/18/2007 deadline. Without this foundation, the testimony is inadmissible. FRE 104. **Improper Lay Opinion.** By failing to provide any factual foundation for his alleged inability to pay the sanctions, Lopez has failed to meet the statutory prerequisites for proffering an admissible opinion based on facts that he personally perceived. FRE 701. Specifically, Lopez does not provide sufficient foundational facts for this Court to conclude that his proffered opinion is *"rationally based on the perception of the witness."* FRE 701.

Dated: January 22, 2008

KEEHN & ASSOCIATES
A Professional Corporation

By: //s// Leslie F. Keehn
Leslie F. Keehn
Attorneys for **Petitioning Creditors**

DOCKET NUMBER 126-5

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Attorneys for **Petitioning Creditors**

UNITED STATES BANKRUPTCY COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

In Re: FRANCIS J. LOPEZ, Alleged Debtor.	Case No. 05-05926-PBINV Involuntary Chapter 7 **PROOF OF SERVICE** Date: January 28, 2008 Time: 10:30 a.m. Judge: The Honorable Peter W. Bowie Ctrm: 4

I, the undersigned, declare that I am over the age of eighteen years and not a party to this cause. I am employed in, or am a resident of, the County of San Diego, California, and my business address is: 402 West Broadway, Suite 1210, San Diego, California.

On the date shown below, I caused to be served the following document(s):

REPLY TO OPPOSITION TO MOTION FOR AN ORDER IMPOSING TERMINATING SANCTIONS AGAINST THE DEBTOR

DECLARATION OF L. SCOTT KEEHN

DECLARATION OF TIMOTHY P. DILLON

DECLARATION OF CYNTHIA K. LAY

EVIDENTIARY OBJECTIONS TO DECLARATION OF FRANCIS LOPEZ

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[ ] BY PERSONAL SERVICE: I placed a true copy of the above document(s) in a sealed envelope clearly labeled to identify the attorney for the party being served, and personally caused said such envelope to be personally delivered on each addressee named hereafter:

[ ] BY FACSIMILE AND MAIL: I declare that upon the prior agreement of the party being served, I served the above named documents by facsimile transmission during usual office hours from facsimile number 619-400-2201, to a facsimile machine maintained by the person on whom it is served and that the transmission was reported as complete and without error. Thereafter, I mailed (by first-class mail, postage prepaid) a true copy to each addressee named hereafter:

[✔] BY MAIL: I declare that I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service, that the correspondence shall be deposited with the United States Postal Service this same day in the ordinary course of business; and that a true copy was placed in a separate envelope, with postage thereon fully prepaid for each addressee named hereafter:

M. Jonathan Hayes
Law Office of M. Jonathan Hayes
21800 Oxnard Street, Suite 840
Woodland Hills, CA 91367

[✔] BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a true copy of the above-named document(s) to be sent to the person(s) at the e-mail addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful:

M. Jonathan Hayes
E-mail: jhayes@polarisnet.net

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on January 28, 2008.

//s// Cynthia K. Lay
CYNTHIA K. LAY

KEEHN & ASSOCIATES, APC
ATTORNEYS AND COUNSELORS AT LAW
402 WEST BROADWAY, SUITE 1210
SAN DIEGO, CALIFORNIA 92101
TELEPHONE (619) 400-2200 · FACSIMILE (619) 400-2201

DOCKET NUMBER 127

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA

Minute Order

Hearing Information:

Debtor: FRANCIS J. LOPEZ
Case Number: 05-05926-PB7 **Chapter:** 7
Date / Time / Room: MONDAY, JANUARY 28, 2008 10:30 AM DEPARTMENT 4
Bankruptcy Judge: PETER W. BOWIE
Courtroom Clerk: MARILYN WILKINSON
Reporter / ECR: LYNETTE ALVES

Matters:

1) PETITIONING CREDITORS' MOTION FOR ORDER IMPOSING TERMINATING SANCTIONS AGAINST THE DEBTOR

2) STATUS CONFERENCE ON INVOLUNTARY PETITION AND ANSWER (fr. 1/7/08)

Appearances:

M. Jonathan Hayes, ATTORNEY FOR Francis J. Lopez
L. Scott Keehn, ATTORNEY FOR ALAN STANLY

Disposition:

1) Granted. Order for Relief to be entered.
2) Off calendar.

DOCKET NUMBER 128

CSD 1127 [07/01/96]

ENTERED 1/28/08

FILED

JAN 28 2008

CLERK, U.S. BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY (04 DEPUTY

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA
325 West "F" Street, San Diego, California 92101-6991

In Re

FRANCIS J. LOPEZ

Debtor.

BANKRUPTCY NO. 05-05926-B7

ORDER FOR RELIEF AND ORDER DIRECTING DEBTOR TO FILE SCHEDULES AND STATEMENT OF FINANCIAL AFFAIRS

On consideration of the involuntary petition filed by Alan Stanly, Northwest Florida Daily News, and Alternative Resolution Center on JUNE 30, 2005, and the summons issued thereon having been served on JUNE 30, 2005, and no answer or other pleading in response thereto having been timely filed, an ORDER FOR RELIEF under Chapter 7 of Title 11 of the United States Code is GRANTED.

IT IS ORDERED that the Debtor file with the Court, WITHIN 15 DAYS of the entry of this order, the schedules and statements required by Federal Rule of Bankruptcy Procedure 1007(b) and (c).

DATED: JAN 28 2008

Judge, United States Bankruptcy Court

CERTIFICATE OF MAILING

I hereby certify that on this date a copy of the within order was mailed to the following parties in interest, namely:

FRANCIS J. LOPEZ, 310 Sand Myrtle Trail, Destin, FL 32541-3429
M. Jonathan Hayes, Law Office of M. Jonathan Hayes, 21800 Oxnard St., Suite 840, Woodland Hills, CA 91367
L. Scott Keehn, Keehn & Associates, APC, 402 West Broadway, Suite 1210, San Diego, CA 92101
Alan Stanly, 1569 Berkshire Court, San Marcos, CA 92069
Northwest Florida Daily News, 200 Racetrack Rd., Ft. Walton Beach, FL 32549
Alternative Resolution Center, 11601 Wilshire Blvd., Suite 1950, Los Angeles, CA 90025
United States Trustee, Dept. of Justice, 402 W. Broadway, Ste. 600, San Diego, CA 92101

DATED: JAN 28 2008

Barry K. Lander, Clerk

By: N. Wilkinson, Deputy Clerk

DOCKET NUMBER 130

M. Jonathan Hayes (Bar No. 90388)
Law Office of M. Jonathan Hayes
21800 Oxnard St, Suite 840
Woodland Hills, CA 91367
Telephone: (818) 710-3656
Facsimile: (818) 710-3659
jhayes@polarisnet.net

Attorneys for Alleged Debtor Francis Lopez

Case # : 05-05926-PBAPBK
Debtor.: FRANCIS J. LOPEZ
Judge..: PETER BOWIE
Chapter: APBK

Filed : February 07, 2008 12:48:18
Deputy : K DURAN
Receipt: 197229
Amount : $255.00

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

In Re: FRANCIS J. LOPEZ, Alleged Debtor	CASE NO. 05-05926-PBINV Involuntary Chapter 7 **NOTICE OF APPEAL BY ALLEGED DEBTOR TO ORDER FOR RELIEF**

Alleged Debtor Francis Lopez hereby appeals under 28 U.S.C. § 1291 from the judgment, order, or decree of Judge Peter Bowie granting an Order for Relief in this Involuntary Case. A copy of the Order is attached hereto. This appeal includes appealing from the ruling granting the Motion for Terminating Sanctions heard on January 28, 2008 for which no separate Order was entered as well as the Order Denying the Motion for Summary Judgment brought by the Debtor and Granting the Motion for Summary Judgment brought by petitioning creditor Alan Stanly. The Order for Relief was entered on January 28, 2008. The Order re Summary Judgment was entered on September 26, 2006 and is also attached hereto.

The names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their respective attorneys are as follows:

Atty for Alleged Debtor Francis Lopez
M. Jonathan Hayes
21800 Oxnard St., Suite 840
Woodland Hills, CA 91367
(818) 710-3656
(818) 710-3659 fax

Atty for Petitioning Creditor, Alan Stanly
L. Scott Keehn
KEEHN & Assoc, APC
402 W. Broadway, Suite 1210
San Diego, CA 92101
(619) 400-2200
(619) 400-2201 fax

Dated: February 6, 2008

Respectfully submitted

By: ______________________
M. Jonathan Hayes
Attorneys for Reorganized Debtor,
Urban Hotels, Inc.

CSD 1127 [07/01/96]

ENTERED 1/28/08

FILED

JAN 28 2008

CLERK, U.S. BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY 104 DEPUTY

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA
325 West "F" Street, San Diego, California 92101-6991

In Re

FRANCIS J. LOPEZ

Debtor.

BANKRUPTCY NO. 05-05926-B7

ORDER FOR RELIEF AND ORDER DIRECTING DEBTOR TO FILE SCHEDULES AND STATEMENT OF FINANCIAL AFFAIRS

On consideration of the involuntary petition filed by Alan Stanly, Northwest Florida Daily News, and Alternative Resolution Center on JUNE 30, 2005, and the summons issued thereon having been served on JUNE 30, 2005, and no answer or other pleading in response thereto having been timely filed, an ORDER FOR RELIEF under Chapter 7 of Title 11 of the United States Code is GRANTED.

IT IS ORDERED that the Debtor file with the Court, WITHIN 15 DAYS of the entry of this order, the schedules and statements required by Federal Rule of Bankruptcy Procedure 1007(b) and (c).

DATED: JAN 28 2008

Judge, United States Bankruptcy Court

CERTIFICATE OF MAILING

I hereby certify that on this date a copy of the within order was mailed to the following parties in interest, namely:

FRANCIS J. LOPEZ, 310 Sand Myrtle Trail, Destin, FL 32541-3429
M. Jonathan Hayes, Law Office of M. Jonathan Hayes, 21800 Oxnard St., Suite 840, Woodland Hills, CA 91367
L. Scott Keehn, Keehn & Associates, APC, 402 West Broadway, Suite 1210, San Diego, CA 92101
Alan Stanly, 1569 Berkshire Court, San Marcos, CA 92069
Northwest Florida Daily News, 200 Racetrack Rd., Ft. Walton Beach, FL 32549
Alternative Resolution Center, 11601 Wilshire Blvd., Suite 1950, Los Angeles, CA 90025
United States Trustee, Dept. of Justice, 402 W. Broadway, Ste. 600, San Diego, CA 92101

DATED: JAN 28 2008

Barry K. Lander, Clerk

By: __________, Deputy Clerk

CSD 1127

WRITTEN DECISION NOT FOR PUBLICATION

ENTERED 9/26/06
FILED
SEP 26 2006
CLERK, U.S. BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY [signature] DEPUTY

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA

In re

FRANCIS J. LOPEZ,

Alleged Debtor.

Case No. 05-05926-PBINV

ORDER ON MOTION FOR SUMMARY JUDGMENT

On September 30, 2005, Alan Stanly commenced this case by filing an involuntary petition against alleged debtor, Francis Lopez. Northwest Florida Daily News later joined in the petition. Lopez challenged the petition on the ground that three petitioning creditors were necessary under Bankruptcy Code § 303(b)(1) because twelve or more entities held claims against him. On June 26, 2006, the Court held a hearing on the parties' cross-motions for summary judgment on the issue of the number of holders of claims against Lopez for the purposes of § 303(b). The Court requested additional briefing and took the matter under submission.

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On July 20, 2006, before the Court ruled on the motions, Richard Kipperman, who asserts a claim against Lopez in the amount of $30,968.57, filed a joinder in the involuntary petition. On the same date Stanly filed a "Suggestion of Mootness" contending that the issue regarding whether there are a sufficient number of creditors to support an involuntary petition is now moot as a result of Mr. Kipperman's joinder, thereby raising to three the number of petitioning creditors and satisfying the requirements for the filing of an involuntary bankruptcy petition regardless of the number of creditors included in the "Section 303" count.

On the Court's direction Lopez filed a response to the Suggestion of Mootness. He contends that Mr. Kipperman (and Northwest Florida Daily News for that matter) does not qualify as a petitioning creditor.

Number of Holders of Claims

Bankruptcy Code Section 303(b) provides:

> (b) An involuntary case against a person is commenced by the filing with the bankruptcy court of a petition under chapter 7 or 11 of this title-
>
> (1) by three or more entities, each of which is either a holder of a claim against such person that is not contingent as to liability or the subject of a bona fide dispute as to liability or amount, or an indenture trustee representing such a holder, if such noncontingent, undisputed claims aggregate at least $12,300 more than the value of any lien on property of the debtor securing such claims held by the holders of such claims;
>
> (2) if there are fewer than 12 such holders, excluding any employee or insider of such person and any transferee of a transfer that is voidable under section 544, 545, 547, 548, 549, or 724(a) of this title, by

one or more of such holders that hold in the aggregate
at least $12,300 of such claims;

On September 7, 2005, Lopez filed an answer to the petition alleging that he had more than 12 creditors, and thus there were an insufficient number of petitioners. On September 19, 2005, Lopez filed a declaration listing those creditors -- twenty-two in all.

Stanly, on the other hand, argues that many of the creditors asserted by Lopez do not qualify to be counted in the determination of whether there are 12 or more creditors for various reasons. Of the twenty-two alleged holders of claims, Stanly contends that:

-- seven did not hold a claim against Lopez as of the petition date;

- one (Alan Stanly) is an excluded "insider" of Lopez;

-- three are "disputed";

-- nine received postpetition transfers voidable under § 548; and

-- eleven received preferences voidable under § 547.

The Court has considered the arguments and evidence submitted by Stanly and Lopez regarding each of the alleged creditors and finds as follows with respect to each.

Allstate Floridian:

As to this creditor, Stanly contends that it did not hold a claim as of June 30, 2005 -- the date of the petition. Lopez counters that prepetition the premium amount was adjusted upward so there was a balance owing of $134. The Court finds that according to the premium statement, which Lopez provided, an additional amount was owing as of the petition date -- that is, the covered period July, 2004 through July, 2005 was not necessarily paid in full as Stanly suggests. The Court finds that this creditor should be counted.

American Express:

Stanly initially contended that American Express did not hold a claim as of the petition date. However, in his reply Stanly concedes that this creditor should be counted.

American Home Shield:

Again, Stanly contends that this creditor did not hold a claim as of the petition date. In his opposition Lopez argued that as of the petition date he was indebted to this creditor in the amount of $128. However, Lopez provides no evidence of such and does not even mention this creditor in his declaration. It appears from Exhibit E to the Declaration of L. Scott Keehn in support of Petitioning Creditors' Motion for Summary Judgment (Keehn Dec.) that this creditor's policy was paid up through 7/16/05. Since Lopez has provided no evidence to the contrary, the Court finds that this creditor should not be counted.

B of A:

Stanly contends that this creditor should not be counted because it received preferential payments which are voidable under § 547 and postpetition payments voidable under § 548. Lopez admits that minimum payments were made on this account, but argues that they were made in the ordinary course of business.

While the "ordinary course" defense might apply to the alleged preferences, there is no comparable defense to the admitted postpetition transfers. It is clear Lopez made postpetition payments to this creditor. While they are authorized under § 303(f), they are nevertheless voidable. See § 549(a)(2). Section 549(b) provides that in an involuntary case such a transfer may not be avoided to the extent value is given in exchange. However, Lopez has provided no evidence of any such value being received. Thus, the Court finds that this creditor should not be counted.

Bankcard Services:

Stanly contends that this claim is subject to a bona fide dispute as to the late fees. Stanly also argues that this creditor should not be counted because it received preferential payments which are voidable under § 547.

Lopez has provided evidence that the issue over late fees had been resolved. Lopez also argues that the payments were made in ordinary course in order to keep the account current.

The Court finds that Stanly has failed to establish that there is a bona fide dispute. In the deposition transcript of Lopez (175:18-177-13), upon which Stanly relies, Lopez merely says that he probably does not agree that the $39 late fee should have been charged and that it was probably resolved on another statement. The Court does not find that this establishes that the claim is subject to a bona fide dispute.

Stanly argues that Lopez failed to provide evidence of his payment practices with respect to this creditor or creditor's requirements. However, the Court is comfortable accepting Lopez's assertion that this credit card company requires minimum monthly payments in the ordinary course. Stanly has provided no evidence that Lopez made unusual payments to this creditor. The Court finds that this creditor should be counted.

Cingular Wireless:

Stanly contends that this creditor should not be counted because it received preferential payments which are voidable under § 547 and postpetition payments voidable under § 548. Lopez admits that payments were made on this account, but argues that they were made in the ordinary course of business and to maintain service. Lopez also contends that most of the payments were made by Noveon - his employer.

As with B of A, discussed above, while the "ordinary course" defense might apply to the alleged preferences, there is no comparable defense to the admitted postpetition transfers. It is clear Lopez made postpetition payments to this creditor. While they are authorized under § 303(f), they are nevertheless voidable. See § 549(a)(2). Section 549(b) provides that in an involuntary case such transfer may not be avoided to the extent value is given in exchange. However, Lopez has provided no evidence of any such value being received. Further, the evidence indicates that Lopez owed a prepetition balance and that the entire bill was paid postpetition. Thus, to the extent any postpetition value was given by Cingular, the amount of the payments would have exceeded this value and thus some portion would be recoverable -- the exception under § 549(b) is only "to the extent any value ... is given." Finally, Lopez provides no evidence that any of the payments were made by his employer.

Thus, the Court finds that this creditor should not be counted.

Citicards:

Stanly contends that this creditor should not be counted because it received preferential payments which are voidable under § 547. Lopez admits that payments of $379/month were made, but argues that they were made in the ordinary course to keep the account current per an agreement with Citicards. The payments were direct debits from his checking account.

Unlike that discussed in connection with Bankcard Services above, this does not appear to be a typical minimum payment situation where the minimum amount due changes based upon the prior month's activity. Rather, this appears to be an arrangement Lopez reached with this creditor to repay an overextended account. Lopez contends that he paid $379/month. However, Stanly's undisputed evidence indicates that Lopez made two payments each month. Again, Lopez has failed to establish that this is a typical ordinary course arrangement. The Court finds that this creditor should not be counted.

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in exchange, but has provided no evidence thereof. Further, the evidence indicates that Lopez owed a prepetition balance (the monthly statement is as of 7/22/05) and that the entire bill was paid postpetition. Thus, to the extent any postpetition value was given by Cox, the amount of the payments would have exceeded this value and thus some portion would be recoverable. Lopez also provides no evidence that payments were made by his employer. The Court finds that this creditor should not be counted.

Ft. Walton Medical Center:

Stanly argues that this claim is subject to a bona fide dispute as to liability. Lopez denies that there is a dispute. Rather, he explains, he initially thought the services would be covered by insurance (because the doctor told him they would), but subsequently accepted that they were not because he did not get prior approval.

The Court finds that Stanly has failed to establish that there is a bona fide dispute with regard to this claim. Stanly characterizes Lopez's deposition testimony as admitting that he thought the claim was in dispute. The Court does not agree. All Lopez said at his deposition is that he was sore that the doctor told him the claim would be covered by insurance and he later learned that it was not. He uses the term "dispute" but never actually claims he was not liable on the claim. See Depo. Trans. at 182:5-185:4. The Court finds that this creditor should be counted.

Household Bank:

Stanly contends that this creditor should not be counted because it received preferential payments voidable under § 547. Lopez contends that the payments were made for debts incurred in ordinary course and that they were made to keep the account current per an agreement with Household Bank.

Like the payment made to Citicards, these do not appear to be a typical minimum payment situation where the minimum amount due changes based upon the prior month's activity. Rather, Lopez made sporadic payments of differing amounts less than the minimum monthly amount. Lopez has not provided evidence that these payments were made in the ordinary course. The Court finds that this creditor should not be counted.

Kelly Plantation Owners Assoc.

Stanly argues that this creditor should not be counted since it received postpetition payments in full satisfaction of its claim. Lopez contends that these are homeowners association fees owing on his residence and that they were incurred and paid in the ordinary course. He also contends that they are frequently paid from his wife's checking account.

As noted above, there is no ordinary course defense to postpetition payments recoverable under § 549. Lopez made postpetition payments to this creditor as authorized under § 303(f). Under § 549(a)(2) these payments are voidable. Lopez provided neither argument nor evidence that he received value in exchange for the payments. Even if he did receive value (common ground maintenance or security for example), the evidence indicates that Lopez owed a prepetition balance and that the entire bill was paid postpetition. Thus, to the extent any postpetition value was given the amount of the payments would have exceeded this value and thus some portion would be recoverable. The Court finds that this creditor should not be counted.

M. Northwest Florida Daily News

In his declaration Lopez admits that this prepetition claim was paid postpetition. The Court therefor finds that this creditor should not be counted.

Okaloosa Gas District:

Lopez admits that he made postpetition payments to this creditor, but that they were made to maintain utility service to his residence. The exhibit provided by Stanly indicates that the payments were less than $50.00/month. The Court finds that continued utility service constitutes value received in exchange for such payments. Accordingly, the Court finds that this creditor should be counted.

Progressive Insurance:

Stanly contends that this creditor did not hold a claim as of the petition date - that the premiums for the period had been paid prepetition. Lopez has provided no evidence to establish the existence of any claim owing to this alleged creditor. The Court finds that this creditor should not be counted.

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Citibank/Quicken Platinum Card:

Lopez admits that he made postpetition payments to this creditor and provides no evidence that value was received in exchange. Accordingly, the Court finds that this creditor should not be counted.

Alan Stanley:

Stanly contends that he, Stanly, cannot be counted because he is an "insider" as he and Lopez each own 50% of Prism. The analysis is a bit convoluted, but Stanly appears to be correct.

The definition of "insider" includes an "affiliate." § 101(31)(E). An "affiliate" includes a corporation owned more than 20% by the debtor. § 101(2)(B). Thus, Prism is an "affiliate" and "insider" of Lopez. Section 101(31)(E) also provides that an "insider of an affiliate" of the debtor is also an insider of the debtor. Stanly, as owner of more than 20% of Prism, is an insider of Prism under § 101(2)(B), and thus an insider of Lopez under § 101(31)(B) because he is an insider of an affiliate of Lopez.

So, Stanly is a "holder of a claim against" Lopez and thus qualifies to be a petitioning creditor under § 301(b)(1). However, for the purposes of determining the number of creditors, he is excluded as an insider under § 301(b)(2). The Court finds that this creditor is not to be counted.

Texaco/Shell:

Lopez admits that he made postpetition payments to this creditor and provides no evidence that value was received in exchange. The Court finds that this creditor should not be counted.

Union Bank:

Again Lopez admits making postpetition payments to this creditor, and provides no evidence that value was received in exchange. The Court finds that this creditor should not be counted.

Valley Forge Life Insurance:

Stanly contends that this creditor did not hold a claim as of the petition date because the premiums for the period had been paid. Also, Lopez is not the account debtor, but rather Madeline Lopez. See Keehn Dec at Exhibit L. Lopez argues that this is a life insurance policy which requires yearly payments. However, he provides no evidence that he, as opposed to Madeline, is the debtor on this account. Accordingly, the Court holds that this claim should not be counted.

Verizon Wireless:

Stanly contends that this claim was subject to a bona fide dispute as of the petition date. It appears from Lopez's testimony at his deposition that Verizon asserted a claim for $262.47, while Lopez disputed any amount over $35.00. Lopez eventually paid the disputed portion, but not until August 21, 2005 - nearly two months after the petition was filed. In his deposition Lopez explained that he disputed the claim, but that at some point he just got tired of fighting and paid it. He does not say that it was resolved prior to him simply paying the disputed amount. See Depo. Trans. at 151-54. Thus, it appears that as of the petition date, this claim was subject to a bona fide dispute and should not be counted.

Alternatively, Lopez admits that this creditor was paid postpetition and provides no evidence of value received in exchange. Accordingly, it should not be counted because it could be voided under § 549. Either way this claim should not be counted.

Wayne Wise:

Stanly alleges that this creditor received a preferential payment of $900 on April 17, 2005 for interest which had accrued on a note. Lopez argues that the payment was made in exchange for Wise's agreement to extend the maturity date of the note until Lopez could sell his residence.

The Court finds that the extension which Lopez received in exchange for the payment is akin to an agreement to forebear an action against the debtor which, although valid consideration for a contract, cannot constitute "new value," within meaning of the new value exception to trustee's preference-avoidance power. See, In re McLean Industries, Inc., 162 B.R. 410 (S.D.N.Y. 1993) (reversed on other grounds 30 F.3d 385). Thus, this creditor should not be counted.

Summary and Conclusion

Based upon the foregoing analysis, the Court finds that of the twenty-two creditors alleged by Lopez, seventeen must be excluded from the count in § 301(b)(2) for one or more of the reasons set out in § 301(b). This leaves only five holders of claims against Lopez that qualify to be counted under § 301(b)(2). Since this is clearly "fewer than 12," the petition was properly filed by one claim holder - Stanly.[1]

The Court does not reach the issue of whether Richard Kipperman (and/or Northwest Florida Daily News) is a proper petitioning creditor (which Lopez disputes), as only one petitioning creditor is required given the Court's ruling.

For the reasons set forth above, the Court grants Stanly's motion for summary judgment and denies Lopez's motion for summary judgment on the issue of the number of holders of claims against Lopez for the purposes of § 303(b).

IT IS SO ORDERED.

DATED: SEP 26 2006

PETER W. BOWIE, Chief Judge
United States Bankruptcy Court

[1] In his opposition to the motion for summary judgment, Lopez alleges another, previously undisclosed creditor - Curd, Galindo & Smith, LLP. Even if this creditor were included, the number would still be insufficient to require more than one petitioning creditor.

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA

In re Case No. 05-05926-PBINV

CERTIFICATE OF MAILING

The undersigned, a regularly appointed and qualified clerk in the office of the United States Bankruptcy Court for the Southern District of California, at San Diego, hereby certifies that a true copy of the attached document, to wit:

was enclosed in a sealed envelope bearing the lawful frank of the Bankruptcy Judges and mailed to each of the parties at their respective address listed below:

Attorney for Alleged Debtor:

M. Jonathan Hayes, Esq.
21800 Oxnard Street, Ste. 840
Woodland Hills, CA 91367

Attorney for Petitioning Creditor Alan Stanly:

L. Scott Keehn, Esq.
530 B Street, Suite 2400
San Diego, CA 92101

Said envelope(s) containing such document were deposited by me in a regular United States mail box in the City of San Diego, in said district on September 26, 2006.

Barbara J. Kelly
Barbara J. Kelly, Judicial Assistant

PROOF OF SERVICE

I, MJ Hayes, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is 21800 Oxnard St., Suite 840, Woodland Hills, CA 91367. On February 6, 2008, I served the within documents:

NOTICE OF APPEAL BY ALLEGED DEBTOR TO ORDER FOR RELIEF

by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.

X by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as set forth below.

.. bv causing personal deliverv bv of the document(s) listed above to the person(s) at the address(es) set forth below.

.. by placing the document(s) listed above in a sealed ______________ envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a ______________ agent for delivery

.. by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

L. Scott Keehn
KEEHN & Assoc, APC
402 W. Broadway, Suite 1210
San Diego, CA 92101

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on February 6, 2008, at Los Angeles, California.

MJ Hayes

DOCKET NUMBER 133

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA

CHIEF JUDGE PETER W. BOWIE, PRESIDING

	)	
	)	
FRANCIS J. LOPEZ	)	CASE NO. 05-05926-PB
	)	
	)	
______________________________	)	

1) STATUS CONFERENCE ON INVOLUNTARY PETITION AND ANSWER

2) PETITIONING CREDITORS' MOTION FOR ORDER IMPOSING TERMINATING SANCTIONS AGAINST THE DEBTOR

REPORTER'S TRANSCRIPT OF PROCEEDINGS

SAN DIEGO, CALIFORNIA
MONDAY, JANUARY 28, 2008

SAN DIEGO BANKRUPTCY REPORTERS
BY: LYNETTE ALVES
P.O.BOX 496
SOLANA BEACH, CA 92075
(858) 336-8558

APPEARANCES

M. JONATHAN HAYES
LAW OFFICE OF M. JONATHAN HAYES
21800 OXNARD ST.
SUITE 840
WOODLAND HILLS, CA 91367
(818) 710-3656

L. SCOTT KEEHN
KEEHN & ASSOCIATES, APC
402 WEST BROADWAY, SUITE 1210
SAN DIEGO, CA 92101
(619) 400-2200

SAN DIEGO, CALIFORNIA, MONDAY, JANUARY 28, 2008, 10:30

--- O 0 O ---

THE CLERK: IN THE MATTER OF FRANCIS J. LOPEZ. WE HAVE TWO MATTERS ON CALENDAR: 1) PETITIONING CREDITORS' MOTION FOR ORDER IMPOSING TERMINATING SANCTIONS AGAINST THE DEBTOR; AND, 2) CONTINUED STATUS CONFERENCE ON INVOLUNTARY PETITION AND ANSWER.

APPEARANCES, PLEASE.

MR. HAYES: GOOD MORNING, YOUR HONOR.

JOHN HAYES FOR THE ALLEGED DEBTOR, FRANCIS LOPEZ.

THE COURT: MR. HAYES.

MR. KEEHN: GOOD MORNING, YOUR HONOR.

SCOTT KEEHN APPEARING ON BEHALF OF THE PETITIONING CREDITORS.

THE COURT: MR. KEEHN.

MR. KEEHN: YOUR HONOR, AS A MATTER OF ACADEMIC REGULARITY, WE WOULD RENEW AT THIS TIME THE EVIDENTIARY OBJECTIONS AND INQUIRE OF THE COURT IF IT WISHES TO PROCEED WITH ARGUMENT AND CONSIDER THE OBJECTIONS IN LIGHT OF THAT.

THE COURT: I STILL WANT TO PROCEED WITH ARGUMENT.

MR. KEEHN: OKAY.

WELL, YOUR HONOR, THIS IS, AS I POINTED OUT IN THE REPLY, WE ARE ONE DAY MINUS THE ONE YEAR ANNIVERSARY OF WHAT HAS BECOME A SANCTIONS ODESSEY. THE COURT HAS ON INNUMERABLE OCCASIONS IN THE PAST PUT OFF THE DAY OF RECKONING WITH REGARD TO MONETARY SANCTIONS. AND THAT DAY OF RECKONING FINALLY CAME ON NOVEMBER 19TH. THAT WAS

A LONG AND WINDING ROAD.

BUT HAVING GONE THAT LONG AND WINDING ROAD, THE COURT TOOK SPECIAL STEPS IN MAKING IT'S AWARD OF THE SANCTIONS TO INDICATE THAT THE TIME HAD COME TO PAY ATTENTION TO THIS CASE.

THE COURT DISCLOSED IT'S CONCERNS ABOUT THE CONDUCT OF THE ALLEGED DEBTOR AND HIS APPARENT LACK OF CONCERN FOR EITHER HIS RESPONSIBILITIES AS A LITIGANT OR IN OBEYING THE ORDERS OF THE COURT. THAT WAS VERY CLEARLY COMMUNICATED AS INDICATED FROM THE PORTIONS OF THE TRANSCRIPT THAT WE CITED IN CONNECTION WITH OUR REPLY.

I HAVE NO DOUBT AND I SUSPECT THE COURT HAS NO DOUBT THAT THE COURTS MESSAGE WAS CONVEYED TO THE DEBTOR WITH CRYSTAL CLARITY. BUT WE TOOK ANOTHER STEP WHEN WE SUBMITTED THE LODGED ORDER AND PROVIDED MR. HAYES WITH A COPY. WE ALSO PROVIDED HIM WITH COPIES OF OUR WIRE TRANSFER INSTRUCTIONS, AND THE CLEAR -- THE EQUALLY CLEAR WARNING THAT THE PETITIONING CREDITORS WEREN'T GOING TO BROOK ANY DELAY IN MR. LOPEZ'S COMPLIANCE WITH THIS ORDER.

BUT WHAT YOU SEE FROM THE EVENTS THAT UNFOLDED SINCE THEN IS THAT YOU HAVE A REPETITION OF THE SAME OLD CONDUCT OF DISREGARDING THE COURT'S ORDER. AND AT THE LAST MINUTE -- LITERALLY THE 11TH HOUR -- YOU GET A COMMUNICATION THAT SAYS SOMETHING TO THE EFFECT OF, "GEE, I CAN'T COMPLY. WHY DON'T YOU NEGOTIATE WITH ME FOR SOME LESSER RESULT; A PARTIAL PAYMENT NOW AND MONTHLY INSTALLMENTS."

WELL, WE WAITED A LONG TIME FOR THOSE MONETARY SANCTIONS. WE HAD A COURT ORDER. AND WHAT DIDN'T ACCOMPANY THAT REQUEST FOR ENTERING INTO A NEGOTIATING SESSION WITH THE ALLEGED DEBTOR WAS ANY EXPLANATION AS TO WHY WE SHOULD. NOT JUST THAT WE HAD A ORDER TO RELY ON BUT RATHER WHAT WERE THE EFFORTS THAT THE DEBTOR HAD UNDERTAKEN FROM NOVEMBER 19TH THROUGH DECEMBER 19TH IN ORDER TO COME UP WITH THE FUNDS REQUIRED BY THAT SANCTIONS ORDER. IF HE DID ANYTHING, HE CHOOSE NOT TO DISCLOSE IT IN THE RECORD. SO WE DECLINED.

AND AS INDICATED FROM THE E-MAIL THAT WAS ATTACHED TO MY DECLARATION, WE DID MORE THAN JUST DECLINE. WE WARNED MR. LOPEZ THAT IF HE WAS THINKING THAT HE WOULD, AS HE HAD IN THE PAST, COME INTO COURT AND BEGGED FOR LENIENCY BECAUSE HE JUST COULDN'T COMPLY, JUST DIDN'T HAVE THE ABILITY, THAT WE HAVE EVIDENCE GARNERED FROM DISCOVERY IN LITIGATION PENDING WITH HIS WIFE AND AN ENTITY THAT SHE OWNS THAT THAT WAS FALSE. AND WE GAVE HIM FAIR WARNING TO BE CAREFUL ABOUT THE PENALTIES OF PERJURY IF HE WAS GOING TO ADVANCE THAT ARGUMENT.

APPARENTLY, HE HAS SOME HEALTHY RESPECT FOR THE PENALTIES OF PERJURY. BECAUSE HE SAID IN HIS DECLARATION THE ABSOLUTE MINIMAL AMOUNT THAT MIGHT BE CONSTRUED AS AN EXCUSE FOR NOT PAYING: HE SAYS, "I COULDN'T COME UP WITH IT."

WELL, I SUBMIT TO YOU THAT FOR THE REASONS INDICATED BY THE EVIDENCE THAT WE PRODUCED AS WE PROMISED

HIM WE WOULD IF HE WENT DOWN THAT PATH; THAT'S JUST FALSE. THE GENTLEMEN HAS DISPOSABLE INCOME THAT APPEARS TO BE IN THE NEIGHBORHOOD OF AT LEAST $123,800 A YEAR. THE AVERAGE OF DEPOSITS MADE INTO THE FAMILY ACCOUNT ARE $10,319. HE'S AT 90.4 PERCENT ABOVE THE MEDIAN FOR INCOME IN THE STATE -- IN FLORIDA WHERE HE RESIDES. HE'S 80.3 PERCENT ABOVE THE MEDIAN FOR TWO-EARNER FAMILIES.

SO THE NOTION THAT HE JUST DOESN'T HAVE THE RESOURCES TO PAY THE SANCTION THAT WAS AWARDED IN NOVEMBER JUST DON'T FLY UNLESS YOU PRESENT SOME OTHER EVIDENCE TO SHOW WHY IT IS THAT THAT LEVEL OF INCOME WAS INSUFFICIENT TO ALLOW HIM TO MAKE A FULL AND TIMELY PAYMENT OF THE SANCTIONS AWARD.

THERE ARE OTHER THINGS HE DIDN'T DO. HE COULD HAVE, RIGHT UP TO DECEMBER 19, HE COULD HAVE FILED A RULE 60(B) MOTION SEEKING EITHER TOTAL RELIEF FROM THE SANCTIONS FOR WHATEVER CAUSE HE MIGHT HAVE. OR, AT LEAST, INSTEAD OF ASKING US TO NEGOTIATE WITH HIM FOR AN EXTENDED PAYMENT PERIOD, ASK THE COURT TO GIVE HIM SOME RELIEF ON THE PAYMENT REQUIREMENT IN THE SAME WAY. IN OTHER WORDS, A DOWN PAYMENT AND PAYMENTS.

THE TROUBLE IS, OF COURSE, THAT HAD HE GONE DOWN THAT PATH, HE WOULD HAVE NEEDED EVIDENCE; EVIDENCE TO SHOW GOOD CAUSE. AND HE DOESN'T HAVE ANY. HE DOESN'T HAVE ANY EVIDENCE TO SUPPORT A RULE 60(B) MOTION; HE DOESN'T HAVE ANY EVIDENCE TO SUPPORT HIS OPPOSITION TO OUR REQUEST FOR TERMINATING SANCTIONS.

THIS LONG AND WINDING ROAD SHOULD COME TO AN END, BECAUSE DELAY FOR THE DEBTOR IS A VICTORY. WE'VE EXPLAINED IT NOT JUST IN THIS MOTION BUT, I THINK, IN EVERY SANCTIONS MOTION THAT WE BROUGHT BEGINNING LAST JANUARY THAT ONE OF THE INSIDIOUS RISKS THAT IS ASSOCIATED WITH THIS CONSTANT TACTIC OF DELAY IS THAT THERE IS AN INVISIBLE CREDITOR BODY THAT CAN BE BUILDING A CREDITOR BODY OF INVOLUNTARY GAP CLAIMS THAT WILL LEAP AHEAD OF PRIORITY OF THE PETITIONING CREDITORS WHO TOOK THE TROUBLE TO BRING THE GENTLEMAN INTO THE BANKRUPTCY COURT WHERE HE BELONGS.

NOW, WE HAVE HARPED ON THAT POINT IN EVERY SET OF PAPERS THAT WE FILED; NOT JUST BECAUSE IT'S A VALID POINT THAT THE COURT SHOULD CONSIDER BUT IT HAS ANOTHER DIMENSION TO IT. EVERY TIME WE RAISED THAT ARGUMENT, THERE WAS AN ELEMENT OF INVITATION. AN INVITATION FOR THE DEBTOR TO COME FORWARD WITH DECLARATIONS UNDER PENALTY OF PERJURY TO DEMONSTRATE WHY THAT WASN'T A REAL RISK.

YOU HAVE HAVEN'T SEEN IN A WHOLE YEAR THAT WE'VE BEEN DOWN THIS SANCTIONS PATH, YOU HAVEN'T SEEN ONE DECLARATION THAT EVEN ADDRESSES THAT ISSUE. AND I SUBMIT TO YOU THAT THE REASON YOU HAVE HAVEN'T SEEN IT IS BECAUSE, AGAIN, MR. LOPEZ HAS A HEALTHY RESPECT FOR THE PENALTIES OF PERJURY AND HE WON'T OUTRIGHT LIE TO YOU.

WHAT HE WILL DO AND WHAT HE HAS DONE IS DECEIVE YOU BY CALCULATED OMISSION. SAYS HE DOESN'T HAVE THE MONEY. HE DOESN'T TELL YOU WHAT HIS RESOURCES WERE AND HOW THEY WERE EXPENDED; JUST WANTS TO TELL YOU HE DOESN'T

HAVE THE MONEY. AND I SUBMIT TO YOU THAT IN LIGHT OF THE EVIDENCE OF THE RESOURCES THAT HE DOES HAVE, THAT IS A DELIBERATE DECEPTION.

SO WHERE WE ARE TODAY, ONE YEAR DOWN THE ROAD, IS AT A POINT WHERE THE COURT SHOULD SIMPLY STOP THE ABILITY OF THE DEBTOR TO INCREASE THE INVOLUNTARY GAP CREDITOR BODY. THIS HAS BECOME ALMOST A GAME TO THE DEBTOR. HE'S BAITING YOU. WHEN ARE YOU REALLY GOING TO DO SOMETHING THAT'S MEANINGFUL? YOU IMPOSE SANCTIONS, BUT THAT DIDN'T BOTHER HIM BECAUSE HE HAD NO INTENTION OF PAYING THEM; CERTAINLY NOT PAYING THEM IN THE TIME FRAME THAT YOU REQUIRED.

AND NOW HE STANDS OFF BAITING STILL. HE DOESN'T PAY; HE WAITS FOR THE MOTION TO BE FILED. AND I CAN TELL YOU AS AN OFFICER OF THE COURT THAT AS I STAND HERE TODAY, NO PORTION, NO PORTION OF THE SANCTIONS HAVE BEEN OFFERED WITHOUT THE STRING THAT REQUIRED A NEGOTIATION; NOT ONE PENNY.

THIS DEBTOR DOES NOT UNDERSTAND OR APPRECIATE HIS DUTIES AS THE LITIGANT. HE WILL NOT VOLUNTARILY COMPLY. AND THIS COURT HAS GIVEN HIM MORE CHANCES THAN I WOULD HAVE IMAGINED, AND CERTAINLY MORE THAN HE DESERVED.

IT'S TIME TO GET ON WITH THE BANKRUPTCY PROCESS AND TO STRIKE HIS ANSWER; ENTER THE ORDER FOR RELIEF. LET'S GET HIM TO FILE HIS SCHEDULES, GET A TRUSTEE IN PLACE AND MOVE FORWARD.

THE COURT: MR. HAYES.

MR. HAYES: THANK YOU, YOUR HONOR.

YOUR HONOR, I'M NOT SURE WHAT I CAN ADD AFTER, I MEAN, TWO AND A HALF YEARS, NOW, DOING THIS CASE.

BUT I WILL SAY THAT AT THE LAST HEARING, YOUR HONOR, BASICALLY, STATED THAT IF THE SANCTIONS WEREN'T PAID, TERMINATING SANCTIONS WOULD BE IMPOSED. AND THE SANCTIONS HAVEN'T BEEN PAID.

I SPOKE TO MR. LOPEZ ON THURSDAY. AND I SAID, "LOOK, IF I SHOW UP WITH A CHECK, WE CAN PROBABLY DODGE THIS RESULT." AND HE TOLD ME THAT HE COULD COME UP WITH HALF BY SKIPPING A HOUSE PAYMENT. AND HE JUST COULDN'T COME UP WITH THE REST OF IT. AND THAT'S -- I MEAN, THAT'S WHERE THAT IS.

WHAT I WOULD LIKE TO ASK THE COURT, THOUGH, IS THAT DISCOVERY IS OVER; MR. KEEHN HAS STATED MANY TIMES THAT ONCE HE GETS THIS LAST DEPOSITION, HE'LL FILE A MOTION FOR SUMMARY JUDGMENT AS TO THE SECOND ISSUE. THE DEBTOR WILL NOT FILE A MOTION FOR SUMMARY JUDGMENT BECAUSE I THINK MR. KEEHN KNOWS MORE ABOUT MR. LOPEZ THAN MR. LOPEZ DOES, I THINK. HE'S GOT THE EVIDENCE TO ESTABLISH WHETHER OR NOT HE WAS PAYING THEIR DEBTS AS THEY GENERALLY BECAME DUE. HE'LL PRESENT IT TO THE COURT; THE COURT WILL RULE, BASED ON THE MERITS OF WHETHER AN INVOLUNTARY SHOULD BE IMPOSED. AND, I MEAN, THAT'S ONLY A MONTH AWAY, I IMAGINE. AND TERMINATING SANCTIONS ARE -- SHOULD BE AVOIDED IF THERE'S ANY OTHER WAY TO RESOLVE THE ISSUE. BUT BEYOND THAT, I

MEAN, HE DIDN'T PAY THE SANCTIONS.

AND I HAVE NOTHING TO ADD.

THE COURT: WELL, I THINK THE TIME HAS COME, FRANKLY. AND I AM GOING TO GRANT THE TERMINATING SANCTIONS AND REQUIRE THAT AN ORDER FOR RELIEF BE ENTERED; A TRUSTEE BE APPOINTED; AND REQUIRE THE DEBTOR TO FILE SCHEDULES WITHIN FIFTEEN DAYS OF TODAY'S DATE. AND THAT'S NOT GOING TO EXCUSE ANYTHING.

IF I WERE TO REQUIRE MR. KEEHN TO GOOD AHEAD AND DO HIS MOTION FOR SUMMARY JUDGMENT ON THE SECOND ISSUE, IT WOULD BE JUST AS IF MR. LOPEZ COULD CONTINUE TO IGNORE THIS COURT'S ORDERS. I LET YOU KNOW BACK IN NOVEMBER THAT I'D ADD IT IN TERMS OF HIS NON-PARTICIPATION IN THIS PROCESS; FOOT-DRAGGING AND NON-PARTICIPATION. AND I REMAIN IN THAT FRAME OF MIND.

SO THE ORDER FOR RELIEF WILL ENTER.

MR. KEEHN: THANK YOU, YOUR HONOR.

MR. HAYES: THANK YOU, YOUR HONOR.

THE CLERK: STATUS CONFERENCE GOES OFF CALENDAR; CORRECT?

THE COURT: YES.

STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

I, LYNETTE ALVES, OFFICIAL REPORTER, DO HEREBY CERTIFY:

THAT I REPORTED IN SHORTHAND THE PROCEEDINGS HELD IN THE FOREGOING CAUSE ON THE 28TH DAY OF JANUARY, 2008; THAT MY NOTES WERE LATER TRANSCRIBED INTO TYPEWRITING UNDER MY DIRECTION; AND, THAT THE FOREGOING TRANSCRIPT CONTAINS A CORRECT STATEMENT OF THE PROCEEDINGS.

DATED THIS ___________ DAY OF ___________________, 2008.

LYNETTE ALVES, CSR #12534, RPR #61256

DOCKET NUMBER 133-1

redact
06/07

United States Bankruptcy Court
Southern District of California
Jacob Weinberger U.S. Courthouse
325 West F Street
San Diego, CA 92101-6991

Telephone: 619-557-5620
Website: www.casb.uscourts.gov
Hours: 9:00am-4:00pm Monday-Friday

Francis J. Lopez
310 Sand Myrtle Trail
Destin, FL 32541-3429
xxx-xx-1124
No Known Aliases

Case number: 05-05926-PB7
Chapter: 7
Judge Peter W. Bowie

NOTICE OF FILING OF TRANSCRIPT AND DEADLINES

TO PARTIES IN INTEREST

YOU ARE HEREBY NOTIFIED that a transcript of the hearing held **1/28/08** was filed with the Court on 2/13/08.

Pursuant to the Judicial Conference Policy on Privacy, access to this transcript is restricted for five business days from the date of filing. All parties have five business days to file a Notice of Intent to Request Redaction of any social security numbers, financial account data, names of minor-age children, dates of birth, and home addresses. If redaction is requested, the filing party has 21 calendar days from the date the Notice of Intent to Request Redaction was filed to file a list of items to be redacted indicating the location of the identifiers within the transcript with the court and to provide the list to the court reporter. The transcript will be made electronically available to the public if no Notice of Intent to Request Redaction is timely filed with the court or after requested redactions are made by the court reporter.

Dated: 2/13/08

Barry K. Lander
Clerk of the Bankruptcy Court

DOCKET NUMBER 133-2

redact
06/07

United States Bankruptcy Court
Southern District of California
Jacob Weinberger U.S. Courthouse
325 West F Street
San Diego, CA 92101-6991

Telephone: 619-557-5620
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310 Sand Myrtle Trail
Destin, FL 32541-3429
xxx-xx-1124
No Known Aliases

Case number: 05-05926-PB7
Chapter: 7
Judge Peter W. Bowie

Amended

NOTICE OF FILING OF TRANSCRIPT AND DEADLINES

TO PARTIES IN INTEREST

YOU ARE HEREBY NOTIFIED that a transcript of the hearing held **01/28/08** was filed with the Court on 2/28/08.

Pursuant to the Judicial Conference Policy on Privacy, access to this transcript is restricted for five business days from the date of filing. All parties have five business days to file a Notice of Intent to Request Redaction of any social security numbers, financial account data, names of minor-age children, dates of birth, and home addresses. If redaction is requested, the filing party has 21 calendar days from the date the Notice of Intent to Request Redaction was filed to file a list of items to be redacted indicating the location of the identifiers within the transcript with the court and to provide the list to the court reporter. The transcript will be made electronically available to the public if no Notice of Intent to Request Redaction is timely filed with the court or after requested redactions are made by the court reporter.

Dated: 2/28/08

Barry K. Lander
Clerk of the Bankruptcy Court

Amended to reflect service to all parties

DOCKET NUMBER 134

M. Jonathan Hayes (Bar No. 90388)
Law Office of M. Jonathan Hayes
21800 Oxnard St, Suite 840
Woodland Hills, CA 91367
Telephone: (818) 710-3656
Facsimile: (818) 710-3659
jhayes@polarisnet.net

Attorneys for Debtor Francis Lopez

FILED SD
2008 FEB 14 AM 10:46
CLERK
U.S. BANKRUPTCY CT.
SO. DIST. OF CALIF.
104

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA

SAN DIEGO DIVISION

In Re: FRANCIS J. LOPEZ, Alleged Debtor	CASE NO. 05-05926-PBINV Chapter 7 **DEBTOR's SCHEDULES A THROUGH J, STATEMENT OF FINANCIAL AFFAIRS**

B6 Summary (Official Form 6 - Summary) (12/07)

United States Bankruptcy Court
~~Central~~ District of California
SOUTHERN

In re **Francis Lopez**, Debtor

Case No. ____________

Chapter 7

SUMMARY OF SCHEDULES

Indicate as to each schedule whether that schedule is attached and state the number of pages in each. Report the totals from Schedules A, B, D, E, F, I, and J in the boxes provided. Add the amounts from Schedules A and B to determine the total amount of the debtor's assets. Add the amounts of all claims from Schedules D, E, and F to determine the total amount of the debtor's liabilities. Individual debtors must also complete the "Statistical Summary of Certain Liabilities and Related Data" if they file a case under chapter 7, 11, or 13.

NAME OF SCHEDULE	ATTACHED (YES/NO)	NO. OF SHEETS	ASSETS	LIABILITIES	OTHER
A - Real Property	Yes	1	950,000.00		
B - Personal Property	Yes	4	13,029.00		
C - Property Claimed as Exempt	Yes	2			
D - Creditors Holding Secured Claims	Yes	1		872,367.00	
E - Creditors Holding Unsecured Priority Claims (Total of Claims on Schedule E)	Yes	3		90,282.00	
F - Creditors Holding Unsecured Nonpriority Claims	Yes	5		302,055.93	
G - Executory Contracts and Unexpired Leases	Yes	1			
H - Codebtors	Yes	1			
I - Current Income of Individual Debtor(s)	Yes	1			14,130.00
J - Current Expenditures of Individual Debtor(s)	Yes	2			14,129.00
Total Number of Sheets of ALL Schedules		21			
		Total Assets	963,029.00		
			Total Liabilities	1,264,704.93	

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Form 6 - Statistical Summary (12/07)

United States Bankruptcy Court
~~Central~~ District of California
SOUTHERN

In re Francis Lopez , Debtor

Case No. ______

Chapter 7

STATISTICAL SUMMARY OF CERTAIN LIABILITIES AND RELATED DATA (28 U.S.C. § 159)

If you are an individual debtor whose debts are primarily consumer debts, as defined in § 101(8) of the Bankruptcy Code (11 U.S.C.§ 101(8)), filing a case under chapter 7, 11 or 13, you must report all information requested below.

☐ Check this box if you are an individual debtor whose debts are NOT primarily consumer debts. You are not required to report any information here.

This information is for statistical purposes only under 28 U.S.C. § 159.

Summarize the following types of liabilities, as reported in the Schedules, and total them.

Type of Liability	Amount
Domestic Support Obligations (from Schedule E)	0.00
Taxes and Certain Other Debts Owed to Governmental Units (from Schedule E)	0.00
Claims for Death or Personal Injury While Debtor Was Intoxicated (from Schedule E) (whether disputed or undisputed)	0.00
Student Loan Obligations (from Schedule F)	0.00
Domestic Support, Separation Agreement, and Divorce Decree Obligations Not Reported on Schedule E	0.00
Obligations to Pension or Profit-Sharing, and Other Similar Obligations (from Schedule F)	0.00
TOTAL	0.00

State the following:

Average Income (from Schedule I, Line 16)	14,130.00
Average Expenses (from Schedule J, Line 18)	14,129.00
Current Monthly Income (from Form 22A Line 12; OR, Form 22B Line 11; OR, Form 22C Line 20)	0.00

State the following:

1. Total from Schedule D, "UNSECURED PORTION, IF ANY" column		0.00
2. Total from Schedule E, "AMOUNT ENTITLED TO PRIORITY" column	90,131.00	
3. Total from Schedule E, "AMOUNT NOT ENTITLED TO PRIORITY, IF ANY" column		151.00
4. Total from Schedule F		302,055.93
5. Total of non-priority unsecured debt (sum of 1, 3, and 4)		302,206.93

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B6A (Official Form 6A) (12/07)

In re **Francis Lopez**, Debtor

Case No. ______

SCHEDULE A - REAL PROPERTY

Except as directed below, list all real property in which the debtor has any legal, equitable, or future interest, including all property owned as a cotenant, community property, or in which the debtor has a life estate. Include any property in which the debtor holds rights and powers exercisable for the debtor's own benefit. If the debtor is married, state whether husband, wife, both, or the marital community own the property by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the debtor holds no interest in real property, write "None" under "Description and Location of Property."

Do not include interests in executory contracts and unexpired leases on this schedule. List them in Schedule G - Executory Contracts and Unexpired Leases.

If an entity claims to have a lien or hold a secured interest in any property, state the amount of the secured claim. See Schedule D. If no entity claims to hold a secured interest in the property, write "None" in the column labeled "Amount of Secured Claim." If the debtor is an individual or if a joint petition is filed, state the amount of any exemption claimed in the property only in Schedule C - Property Claimed as Exempt.

Description and Location of Property	Nature of Debtor's Interest in Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption	Amount of Secured Claim
residence located at 310 Sand Myrtle Trail, Destin, FL 32541. Note: This residence is owned by the debtor and his wife as a Tenancy by the Entireties. Listing of the residence on Schedule A is not an admission that the estate has any rights to the residence. Debtor claims the residence exempt as well under Florida law.	**Tenancy by the Entirety with spouse**	**-**	**950,000.00**	**872,367.00**

Sub-Total > **950,000.00** (Total of this page)

Total > **950,000.00**

(Report also on Summary of Schedules)

0 continuation sheets attached to the Schedule of Real Property

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B6B (Official Form 6B) (12/07)

In re **Francis Lopez**, Debtor   Case No. ____________

SCHEDULE B - PERSONAL PROPERTY

Except as directed below, list all personal property of the debtor of whatever kind. If the debtor has no property in one or more of the categories, place an "x" in the appropriate position in the column labeled "None." If additional space is needed in any category, attach a separate sheet properly identified with the case name, case number, and the number of the category. If the debtor is married, state whether husband, wife, both, or the marital community own the property by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the debtor is an individual or a joint petition is filed, state the amount of any exemptions claimed only in Schedule C - Property Claimed as Exempt.

Do not list interests in executory contracts and unexpired leases on this schedule. List them in Schedule G - Executory Contracts and Unexpired Leases.

If the property is being held for the debtor by someone else, state that person's name and address under "Description and Location of Property."
If the property is being held for a minor child, simply state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. §112 and Fed. R. Bankr. P. 1007(m).

Type of Property	NONE	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
1. Cash on hand	X			
2. Checking, savings or other financial accounts, certificates of deposit, or shares in banks, savings and loan, thrift, building and loan, and homestead associations, or credit unions, brokerage houses, or cooperatives.		**Checking account, Wachovia Bank, Destin, FL. Note: This account is owned by the debtor and his wife as a Tenancy by the Entireties. Listing of the account on Schedule B is not an admission that the estate has any rights to the funds therein. Debtor claims the funds exempt as well under Florida law.**	-	**2,000.00**
		Checking account, Compass Bank, Destin, FL	-	**44.00**
3. Security deposits with public utilities, telephone companies, landlords, and others.	X			
4. Household goods and furnishings, including audio, video, and computer equipment.		**Household Goods and Furnishings**	-	**1,500.00**
		AV equipment	-	**137.50**
5. Books, pictures and other art objects, antiques, stamp, coin, record, tape, compact disc, and other collections or collectibles.		**Books, pictures and personal effects**	-	**1,500.00**
6. Wearing apparel.		**Wearing apparel**	-	**500.00**
7. Furs and jewelry.		**Jewelry**	-	**100.00**
8. Firearms and sports, photographic, and other hobby equipment.		**Firearms**	-	**150.00**
		Sports equipment	-	**175.00**
		Photographic equipment	-	**175.00**
9. Interests in insurance policies. Name insurance company of each policy and itemize surrender or refund value of each.		**Term policy only $500,000 face amount on Debtor**	-	**0.00**

Sub-Total > **6,281.50**
(Total of this page)

3 continuation sheets attached to the Schedule of Personal Property

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B6B (Official Form 6B) (12/07) - Cont.

In re **Francis Lopez**, Debtor Case No. ______

SCHEDULE B - PERSONAL PROPERTY
(Continuation Sheet)

Type of Property	NONE	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
10. Annuities. Itemize and name each issuer.	X			
11. Interests in an education IRA as defined in 26 U.S.C. § 530(b)(1) or under a qualified State tuition plan as defined in 26 U.S.C. § 529(b)(1). Give particulars. (File separately the record(s) of any such interest(s). 11 U.S.C. § 521(c).)	X			
12. Interests in IRA, ERISA, Keogh, or other pension or profit sharing plans. Give particulars.		IRA Citi Smith Barney, Pensacola, FL	-	260.00
13. Stock and interests in incorporated and unincorporated businesses. Itemize.		Prism, Cambria Holdings LLC	-	0.00
14. Interests in partnerships or joint ventures. Itemize.	X			
15. Government and corporate bonds and other negotiable and nonnegotiable instruments.	X			
16. Accounts receivable.	X			
17. Alimony, maintenance, support, and property settlements to which the debtor is or may be entitled. Give particulars.	X			
18. Other liquidated debts owed to debtor including tax refunds. Give particulars.	X			
19. Equitable or future interests, life estates, and rights or powers exercisable for the benefit of the debtor other than those listed in Schedule A - Real Property.	X			
20. Contingent and noncontingent interests in estate of a decedent, death benefit plan, life insurance policy, or trust.	X			

Sub-Total > 260.00
(Total of this page)

Sheet 1 of 3 continuation sheets attached to the Schedule of Personal Property

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B6B (Official Form 6B) (12/07) - Cont.

In re **Francis Lopez**, Case No. ______
Debtor

SCHEDULE B - PERSONAL PROPERTY
(Continuation Sheet)

Type of Property	NONE	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
21. Other contingent and unliquidated claims of every nature, including tax refunds, counterclaims of the debtor, and rights to setoff claims. Give estimated value of each.		**Francis Lopez v. Alan Stanly, and related cross-complaint, GIN029692 Superior Court of the state of California, County of San Diego, North County Branch**	-	**Unknown**
22. Patents, copyrights, and other intellectual property. Give particulars.	X			
23. Licenses, franchises, and other general intangibles. Give particulars.	X			
24. Customer lists or other compilations containing personally identifiable information (as defined in 11 U.S.C. § 101(41A)) provided to the debtor by individuals in connection with obtaining a product or service from the debtor primarily for personal, family, or household purposes.	X			
25. Automobiles, trucks, trailers, and other vehicles and accessories.		**1995 BMW**	-	**3,400.00**
26. Boats, motors, and accessories.	X			
27. Aircraft and accessories.	X			
28. Office equipment, furnishings, and supplies.		**Office furniture**	-	**2,500.00**
		Computer and office related equipment used in business	-	**500.00**
29. Machinery, fixtures, equipment, and supplies used in business.	X			
30. Inventory.	X			
31. Animals.	X			
32. Crops - growing or harvested. Give particulars.	X			
33. Farming equipment and implements.	X			
34. Farm supplies, chemicals, and feed.	X			

Sub-Total > **6,400.00**
(Total of this page)

Sheet 2 of 3 continuation sheets attached to the Schedule of Personal Property

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B6B (Official Form 6B) (12/07) - Cont.

In re **Francis Lopez** , Case No. ____________
Debtor

SCHEDULE B - PERSONAL PROPERTY
(Continuation Sheet)

Type of Property	NONE	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
35. Other personal property of any kind not already listed. Itemize.		**Power tools and related**	-	**87.50**

Sub-Total > **87.50**
(Total of this page)
Total > **13,029.00**

Sheet 3 of 3 continuation sheets attached to the Schedule of Personal Property

(Report also on Summary of Schedules)

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B6C (Official Form 6C) (12/07)

In re **Francis Lopez** , Debtor Case No. ______

SCHEDULE C - PROPERTY CLAIMED AS EXEMPT

Debtor claims the exemptions to which debtor is entitled under:
(Check one box)
☐ 11 U.S.C. §522(b)(2)
■ 11 U.S.C. §522(b)(3)

☐ Check if debtor claims a homestead exemption that exceeds $136,875.

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Value of Property Without Deducting Exemption
Real Property			
residence located at 310 Sand Myrtle Trail, Destin, FL 32541. Note: This residence is owned by the debtor and his wife as a Tenancy by the Entireties. Listing of the residence on Schedule A is not an admission that the estate has any rights to the residence. Debtor claims the residence exempt as well under Florida law.	11 U.S.C. § 522(b)(3)(B) Exemption claimed under Florida law as well as by TBE	77,633.00	950,000.00
Checking, Savings, or Other Financial Accounts, Certificates of Deposit			
Checking account, Wachovia Bank, Destin, FL. Note: This account is owned by the debtor and his wife as a Tenancy by the Entireties. Listing of the account on Schedule B is not an admission that the estate has any rights to the funds therein. Debtor claims the funds exempt as well under Florida law.	Claimed exempt to extent allowed by Florida law - to be amended	0.00	4,000.00
Household Goods and Furnishings			
Household Goods and Furnishings	100% claimed exempt under Florida law - Schedule C will be amended	0.00	3,000.00
AV equipment	100% claimed exempt under Florida law - schedule C will be amended	0.00	275.00
Books, Pictures and Other Art Objects; Collectibles			
Books, pictures and personal effects	100% claimed exempt under Florida law	0.00	3,000.00
Wearing Apparel			
Wearing apparel	100% claimed exempt under Fl law	0.00	500.00
Firearms and Sports, Photographic and Other Hobby Equipment			
Firearms	100% claimed exempt under Fl law - schedule will be amended	0.00	300.00
Sports equipment	claimed exempt under Fl law	0.00	350.00
Interests in IRA, ERISA, Keogh, or Other Pension or Profit Sharing Plans			
IRA Citi Smith Barney, Pensacola, FL	100% exempt under Fl Law	0.00	260.00
Other Contingent and Unliquidated Claims of Every Nature			
Francis Lopez v. Alan Stanly, and related cross-complaint, GIN029692 Superior Court of the state of California, County of San Diego, North County Branch	Claimed exempt to extent allowed under Florida law if any	0.00	Unknown
Automobiles, Trucks, Trailers, and Other Vehicles			
1995 BMW	claimed exempt to extent allowed under Florida law - schedule will be amended	0.00	3,400.00

__1__ continuation sheets attached to Schedule of Property Claimed as Exempt

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B6C (Official Form 6C) (12/07) -- Cont.

In re **Francis Lopez**, Debtor Case No. ______________

SCHEDULE C - PROPERTY CLAIMED AS EXEMPT

(Continuation Sheet)

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Value of Property Without Deducting Exemption
Office Equipment, Furnishings and Supplies **Office furniture**	**100 % claimed exempt under Fl law**	**0.00**	**2,500.00**
Computer and office related equipment used in business	**100% claimed exempt under Fl law - to be amended**	**0.00**	**500.00**
Other Personal Property of Any Kind Not Already Listed **Power tools and related**	**claimed exempt to extent allowed by Fl law - to be amended**	**0.00**	**175.00**
	Total:	**77,633.00**	**968,260.00**

Sheet 1 of 1 continuation sheets attached to the Schedule of Property Claimed as Exempt

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B6D (Official Form 6D) (12/07)

In re **Francis Lopez** , Debtor Case No. ______________

SCHEDULE D - CREDITORS HOLDING SECURED CLAIMS

State the name, mailing address, including zip code, and last four digits of any account number of all entities holding claims secured by property of the debtor as of the date of filing of the petition. The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. List creditors holding all types of secured interests such as judgment liens, garnishments, statutory liens, mortgages, deeds of trust, and other security interests.

List creditors in alphabetical order to the extent practicable. If a minor child is a creditor, the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. §112 and Fed. R. Bankr. P. 1007(m). If all secured creditors will not fit on this page, use the continuation sheet provided.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor" ,include the entity on the appropriate schedule of creditors, and complete Schedule H - Codebtors. If a joint petition is filed, state whether the husband, wife, both of them, or the marital community may be liable on each claim by placing an "H", "W", "J", or "C" in the column labeled "Husband, Wife, Joint, or Community".

If the claim is contingent, place an "X" in the column labeled "Contingent". If the claim is unliquidated, place an "X" in the column labeled "Unliquidated". If the claim is disputed, place an "X" in the column labeled "Disputed". (You may need to place an "X" in more than one of these three columns.)

Total the columns labeled "Amount of Claim Without Deducting Value of Collateral" and "Unsecured Portion, if Any" in the boxes labeled "Total(s)" on the last sheet of the completed schedule. Report the total from the column labeled "Amount of Claim" also on the Summary of Schedules and, if the debtor is an individual with primarily consumer debts, report the total from the column labeled "Unsecured Portion" on the Statistical Summary of Certain Liabilities and Related Data.

☐ Check this box if debtor has no creditors holding secured claims to report on this Schedule D.

CREDITOR'S NAME AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	CODEBTOR	Husband, Wife, Joint, or Community (H W J C)	DATE CLAIM WAS INCURRED, NATURE OF LIEN, AND DESCRIPTION AND VALUE OF PROPERTY SUBJECT TO LIEN	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM WITHOUT DEDUCTING VALUE OF COLLATERAL	UNSECURED PORTION, IF ANY
Account No. **ending in 5023** **Aurora Loan Services** **10350 Park Meadows Dr.** **Littleton, CO 80124**		**W**	**residence located at 310 Sand Myrtle Trail, Destin, FL 32541. Note: This residence is owned by the debtor and his wife as a Tenancy by the Entireties. Listing of the residence on Schedule A is not an admission that the estate has any rig** Value $ **950,000.00**	**X**			**749,541.00**	**0.00**
Account No. **ending in 2977** **HSBC Mortgage** **P O Box 5207** **Carol Stream, IL 60197**		**W**	**residence located at 310 Sand Myrtle Trail, Destin, FL 32541. Note: This residence is owned by the debtor and his wife as a Tenancy by the Entireties. Listing of the residence on Schedule A is not an admission that the estate has any rig** Value $ **950,000.00**	**X**			**122,826.00**	**0.00**
Account No.			Value $					
Account No.			Value $					
0 continuation sheets attached			Subtotal (Total of this page)				**872,367.00**	**0.00**
			Total (Report on Summary of Schedules)				**872,367.00**	**0.00**

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B6E (Official Form 6E) (12/07)

In re **Francis Lopez** , Debtor Case No. ______

SCHEDULE E - CREDITORS HOLDING UNSECURED PRIORITY CLAIMS

A complete list of claims entitled to priority, listed separately by type of priority, is to be set forth on the sheets provided. Only holders of unsecured claims entitled to priority should be listed in this schedule. In the boxes provided on the attached sheets, state the name, mailing address, including zip code, and last four digits of the account number, if any, of all entities holding priority claims against the debtor or the property of the debtor, as of the date of the filing of the petition. Use a separate continuation sheet for each type of priority and label each with the type of priority.

The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. If a minor child is a creditor, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. §112 and Fed. R. Bankr. P. 1007(m).

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor," include the entity on the appropriate schedule of creditors, and complete Schedule H-Codebtors. If a joint petition is filed, state whether the husband, wife, both of them, or the marital community may be liable on each claim by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the claim is contingent, place an "X" in the column labeled "Contingent." If the claim is unliquidated, place an "X" in the column labeled "Unliquidated." If the claim is disputed, place an "X" in the column labeled "Disputed." (You may need to place an "X" in more than one of these three columns.)

Report the total of claims listed on each sheet in the box labeled "Subtotals" on each sheet. Report the total of all claims listed on this Schedule E in the box labeled "Total" on the last sheet of the completed schedule. Report this total also on the Summary of Schedules.

Report the total of amounts entitled to priority listed on each sheet in the box labeled "Subtotals" on each sheet. Report the total of all amounts entitled to priority listed on this Schedule E in the box labeled "Totals" on the last sheet of the completed schedule. Individual debtors with primarily consumer debts report this total also on the Statistical Summary of Certain Liabilities and Related Data.

Report the total of amounts not entitled to priority listed on each sheet in the box labeled "Subtotals" on each sheet. Report the total of all amounts not entitled to priority listed on this Schedule E in the box labeled "Totals" on the last sheet of the completed schedule. Individual debtors with primarily consumer debts report this total also on the Statistical Summary of Certain Liabilities and Related Data.

☐ Check this box if debtor has no creditors holding unsecured priority claims to report on this Schedule E.

TYPES OF PRIORITY CLAIMS (Check the appropriate box(es) below if claims in that category are listed on the attached sheets)

☐ **Domestic support obligations**

Claims for domestic support that are owed to or recoverable by a spouse, former spouse, or child of the debtor, or the parent, legal guardian, or responsible relative of such a child, or a governmental unit to whom such a domestic support claim has been assigned to the extent provided in 11 U.S.C. § 507(a)(1).

■ **Extensions of credit in an involuntary case**

Claims arising in the ordinary course of the debtor's business or financial affairs after the commencement of the case but before the earlier of the appointment of a trustee or the order for relief. 11 U.S.C. § 507(a)(3).

☐ **Wages, salaries, and commissions**

Wages, salaries, and commissions, including vacation, severance, and sick leave pay owing to employees and commissions owing to qualifying independent sales representatives up to $10,950* per person earned within 180 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507(a)(4).

☐ **Contributions to employee benefit plans**

Money owed to employee benefit plans for services rendered within 180 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507(a)(5).

☐ **Certain farmers and fishermen**

Claims of certain farmers and fishermen, up to $5,400* per farmer or fisherman, against the debtor, as provided in 11 U.S.C. § 507(a)(6).

☐ **Deposits by individuals**

Claims of individuals up to $2,425* for deposits for the purchase, lease, or rental of property or services for personal, family, or household use, that were not delivered or provided. 11 U.S.C. § 507(a)(7)..

☐ **Taxes and certain other debts owed to governmental units**

Taxes, customs duties, and penalties owing to federal, state, and local governmental units as set forth in 11 U.S.C. § 507(a)(8).

☐ **Commitments to maintain the capital of an insured depository institution**

Claims based on commitments to the FDIC, RTC, Director of the Office of Thrift Supervision, Comptroller of the Currency, or Board of Governors of the Federal Reserve System, or their predecessors or successors, to maintain the capital of an insured depository institution. 11 U.S.C. § 507 (a)(9).

☐ **Claims for death or personal injury while debtor was intoxicated**

Claims for death or personal injury resulting from the operation of a motor vehicle or vessel while the debtor was intoxicated from using alcohol, a drug, or another substance. 11 U.S.C. § 507(a)(10).

* Amounts are subject to adjustment on April 1, 2010, and every three years thereafter with respect to cases commenced on or after the date of adjustment.

2 continuation sheets attached

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B6E (Official Form 6E) (12/07) - Cont.

In re Francis Lopez, Debtor   Case No. ________

SCHEDULE E - CREDITORS HOLDING UNSECURED PRIORITY CLAIMS
(Continuation Sheet)

Extensions of credit in an involuntary case

TYPE OF PRIORITY

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions.)	CODEBTOR	Husband, Wife, Joint, or Community (H W J C)	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM	AMOUNT NOT ENTITLED TO PRIORITY, IF ANY	AMOUNT ENTITLED TO PRIORITY
Account No. ending in 4468 Capital One P O Box 650007 Dallas, TX 75265		-					369.00	0.00	369.00
Account No. Joan and Bailey Noble 5470 Los Robles Dr. Carlsbad, CA 92008		-	2006 personal loan				29,000.00	0.00	29,000.00
Account No. Lamar Conerly, Esq. P O Box 6944 Miramar Beach, FL 32550		-	Legal Services				686.00	0.00	686.00
Account No. M. Jonathan Hayes 21800 Oxnard St, Woodland Hills, CA 91367		-	2005-2008 legal services				30,076.00	0.00	30,076.00
Account No. ending in 0223 Orchard Bank P O Box 4155 Carol Stream, IL 60197		-					151.00	151.00	0.00
						Subtotal (Total of this page)	60,282.00	151.00	60,131.00

Sheet 1 of 2 continuation sheets attached to Schedule of Creditors Holding Unsecured Priority Claims

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B6E (Official Form 6E) (12/07) - Cont.

In re **Francis Lopez**, Debtor Case No. ____________

SCHEDULE E - CREDITORS HOLDING UNSECURED PRIORITY CLAIMS

(Continuation Sheet)

Extensions of credit in an involuntary case

TYPE OF PRIORITY

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions.)	CODEBTOR	Husband, Wife, Joint, or Community (H W J C)	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM	AMOUNT NOT ENTITLED TO PRIORITY, IF ANY / AMOUNT ENTITLED TO PRIORITY
Account No. **Ron Noya, Esq.** **600 B St., Ste 1970** **San Diego, CA 92101**	X	-	**2005-2007** **Legal Services**		X		30,000.00	0.00 30,000.00
Account No.								
Account No.								
Account No.								
Account No.								

Sheet 2 of 2 continuation sheets attached to Schedule of Creditors Holding Unsecured Priority Claims

	Amount of Claim	Amount Not Entitled / Entitled to Priority
Subtotal (Total of this page)	30,000.00	0.00 30,000.00
Total (Report on Summary of Schedules)	90,282.00	151.00 90,131.00

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B6F (Official Form 6F) (12/07)

In re **Francis Lopez**, Debtor   Case No. ________

SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS

State the name, mailing address, including zip code, and last four digits of any account number, of all entities holding unsecured claims without priority against the debtor or the property of the debtor, as of the date of filing of the petition. The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. If a minor child is a creditor, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. §112 and Fed. R. Bankr. P. 1007(m). Do not include claims listed in Schedules D and E. If all creditors will not fit on this page, use the continuation sheet provided.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor," include the entity on the appropriate schedule of creditors, and complete Schedule H - Codebtors. If a joint petition is filed, state whether the husband, wife, both of them, or the marital community may be liable on each claim by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community."

If the claim is contingent, place an "X" in the column labeled "Contingent." If the claim is unliquidated, place an "X" in the column labeled "Unliquidated." If the claim is disputed, place an "X" in the column labeled "Disputed." (You may need to place an "X" in more than one of these three columns.)

Report the total of all claims listed on this schedule in the box labeled "Total" on the last sheet of the completed schedule. Report this total also on the Summary of Schedules and, if the debtor is an individual with primarily consumer debts, report this total also on the Statistical Summary of Certain Liabilities and Related Data.

☐ Check this box if debtor has no creditors holding unsecured claims to report on this Schedule F.

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	CODEBTOR	Husband, Wife, Joint, or Community (H W J C)	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM
Account No. **Alan Stanly** **1569 Berkshire Ct.** **San Marcos, CA 92069**		-	**Judgment in Union Bank v. Stanly (Cross Complaint by Stanly) Under Appeal**			X	**50,000.00**
Account No. **3783-498022-83007** **American Express** **PO Box 297804** **Fort Lauderdale, FL 33329**		-	**1994-2004** **Goods and Services (some of deby may be owed by Prism and/or Stanly, Personally Guaranteed by Lopez)**	X			**24,903.26**
Account No. **5490-9991-7848-8929** **Bank Card Services** **PO Box 15287** **Wilmington, DE 19886**		-	**2001-2005** **Goods and Services**				**10,000.00**
Account No. **4050-8605-1242-9141** **Bank of America** **PO Box 1390** **Norfolk, VA 23501**		-	**Credit Card, goods and services**				**2,386.00**

4 continuation sheets attached

Subtotal (Total of this page) **87,289.26**

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B6F (Official Form 6F) (12/07) - Cont.

In re Francis Lopez, Debtor Case No. ____________

SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS

(Continuation Sheet)

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	CODEBTOR	Husband, Wife, Joint, or Community (H W J C)	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM
Account No. 8936 BofA / {enncro Associates, Inc. 95 James Way, Suite 113 Southampton, PA 18966		-	3/7/2005				15,481.06
Account No. 5424-1803-0666-5024 Citi Cards PO Box 6414 The Lakes, NV 88901		-	1994-2005 Goods and Services				32,515.00
Account No. 2004 est Curd Galindo & Smith 301 East Ocean Blvd., Suite 460 Long Beach, CA 90802		-	6/30/2005 legal services				900.00
Account No. Enterprise Technology Holdings c/o Dillon & Gerardi, APC 4660 La Jolla Village Dr., #775 San Diego, CA 92122		-		X	X	X	0.00
Account No. Fischbach and Fischbach 9300 Wilshire Blvd., Suite 308 Beverly Hills, CA 90212		-	6/30/2005 legal services, Notice only	X	X	X	Unknown

Sheet no. 1 of 4 sheets attached to Schedule of Creditors Holding Unsecured Nonpriority Claims

Subtotal (Total of this page) 48,896.06

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B6F (Official Form 6F) (12/07) - Cont.

In re **Francis Lopez**, Debtor Case No. ____________

SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	CODEBTOR	Husband, Wife, Joint, or Community H W J C	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM
Account No. **Frederick Lopez** **8124 Salt River Road** **Fort Worth, TX 76137**		-	**2004-2005** **personal loans**				**35,000.00**
Account No. **Ft. Walton Beach Medical Center** **1000 Mar Walt Drive** **Fort Walton Beach, FL 32547**		-					**3,256.58**
Account No. **Gaglione Law Group** **750 B Street, Suite 3401** **San Diego, CA 92101**		-	**6/30/2005**				**3,939.05**
Account No. **Haight Brown & Bonesteel LLP** **6080 Center Drive, Suite 800** **Los Angeles, CA 90045**		-	**6/30/2005**				**1,900.00**
Account No. **6002** **Herman Miller Capital** **PO Box 550599** **Jacksonville, FL 32255**		-	**6/30/2005**	X		X	**98,910.60**

Sheet no. 2 of 4 sheets attached to Schedule of Creditors Holding Unsecured Nonpriority Claims

Subtotal (Total of this page) **143,006.23**

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B6F (Official Form 6F) (12/07) - Cont.

In re **Francis Lopez**, Debtor Case No. ______

SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS

(Continuation Sheet)

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	CODEBTOR	Husband, Wife, Joint, or Community H W J C	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM
Account No. **5176-6900-0673-2635** **Household Bank / HSBC** **PO Box 5222** **Carol Stream, IL 60197**		-	**2003-2005** **Goods and Services**		X		**5,000.00**
Account No. **Law Offices of Lamar A. Conerly** **PO Box 6944** **Miramar Beach, FL 32550**		-	**6/30/2005**				**1,188.01**
Account No. **Northwest Florida Daily News** **200 Racetrack Road** **Fort Walton Beach, FL 32549**		-	**Newspaper**				**45.00**
Account No. **37287370-4** **Progressive Insurance** **PO Box 31260** **Tampa, FL 33631**		-	**6/30/2005**				**320.96**
Account No. **Quicken Platinum Card** **PO Box 44167** **Jacksonville, FL 32231**		-	**Goods and Services 1998-2005**				**848.00**

Sheet no. 3 of 4 sheets attached to Schedule of Creditors Holding Unsecured Nonpriority Claims

Subtotal (Total of this page) **7,401.97**

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B6F (Official Form 6F) (12/07) - Cont.

In re **Francis Lopez** , Case No. ____________
Debtor

SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	CODEBTOR	Husband, Wife, Joint, or Community H W J C	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM
Account No. **Richard Kipperman** **P O Box 3939** **La Mesa, CA 91944**		-	**6/30/2005** **notice only**	X		X	**Unknown**
Account No. **7791765501** **Texaco/Shell** **PO Box 9151** **Des Moines, IA 50368**		-	**Gasoline and Related**				**462.41**
Account No. **Wayne Wise** **810 Red Tanager Ct.** **Nashville, TN 37221**	X	-	**Personal Loan**				**15,000.00**
Account No.							
Account No.							

Sheet no. 4 of 4 sheets attached to Schedule of Creditors Holding Unsecured Nonpriority Claims

Subtotal (Total of this page) **15,462.41**

Total (Report on Summary of Schedules) **302,055.93**

B6G (Official Form 6G) (12/07)

In re **Francis Lopez** , Debtor   Case No. ____________

SCHEDULE G - EXECUTORY CONTRACTS AND UNEXPIRED LEASES

Describe all executory contracts of any nature and all unexpired leases of real or personal property. Include any timeshare interests. State nature of debtor's interest in contract, i.e., "Purchaser", "Agent", etc. State whether debtor is the lessor or lessee of a lease. Provide the names and complete mailing addresses of all other parties to each lease or contract described. If a minor child is a party to one of the leases or contracts, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. §112 and Fed. R. Bankr. P. 1007(m).

■ Check this box if debtor has no executory contracts or unexpired leases.

Name and Mailing Address, Including Zip Code, of Other Parties to Lease or Contract	Description of Contract or Lease and Nature of Debtor's Interest. State whether lease is for nonresidential real property. State contract number of any government contract.

0 continuation sheets attached to Schedule of Executory Contracts and Unexpired Leases

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B6H (Official Form 6H) (12/07)

In re **Francis Lopez**, Debtor Case No. ____________

SCHEDULE H - CODEBTORS

Provide the information requested concerning any person or entity, other than a spouse in a joint case, that is also liable on any debts listed by debtor in the schedules of creditors. Include all guarantors and co-signers. If the debtor resides or resided in a community property state, commonwealth, or territory (including Alaska, Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, or Wisconsin) within the eight year period immediately preceding the commencement of the case, identify the name of the debtor's spouse and of any former spouse who resides or resided with the debtor in the community property state, commonwealth, or territory. Include all names used by the nondebtor spouse during the eight years immediately preceding the commencement of this case. If a minor child is a codebtor or a creditor, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. §112 and Fed. R. Bankr. P. 1007(m).

☐ Check this box if debtor has no codebtors.

NAME AND ADDRESS OF CODEBTOR	NAME AND ADDRESS OF CREDITOR
Madeleine Magill Lopez□□	**Ron Noya, Esq. 600 B St., Ste 1970 San Diego, CA 92101**
Madeleine Magill Lopez□□	**Wayne Wise 810 Red Tanager Ct. Nashville, TN 37221**

0 continuation sheets attached to Schedule of Codebtors

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B6I (Official Form 6I) (12/07)

In re Francis Lopez Debtor(s) Case No. ____

SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S)

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by every married debtor, whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. Do not state the name of any minor child. The average monthly income calculated on this form may differ from the current monthly income calculated on Form 22A, 22B, or 22C.

Debtor's Marital Status:	DEPENDENTS OF DEBTOR AND SPOUSE	
	RELATIONSHIP(S):	AGE(S):
Married	son	7
	son	9

Employment:	DEBTOR	SPOUSE
Occupation	**Consultant**	
Name of Employer	**Self employed**	
How long employed	**4 years**	
Address of Employer		

INCOME: (Estimate of average or projected monthly income at time case filed)	DEBTOR	SPOUSE
1. Monthly gross wages, salary, and commissions (Prorate if not paid monthly)	$ 0.00	$ 5,333.00
2. Estimate monthly overtime	$ 0.00	$ 0.00
3. SUBTOTAL	$ 0.00	$ 5,333.00
4. LESS PAYROLL DEDUCTIONS		
a. Payroll taxes and social security	$ 0.00	$ 747.00
b. Insurance	$ 0.00	$ 206.00
c. Union dues	$ 0.00	$ 0.00
d. Other (Specify):	$ 0.00	$ 0.00
	$ 0.00	$ 0.00
5. SUBTOTAL OF PAYROLL DEDUCTIONS	$ 0.00	$ 953.00
6. TOTAL NET MONTHLY TAKE HOME PAY	$ 0.00	$ 4,380.00
7. Regular income from operation of business or profession or farm (Attach detailed statement)	$ 9,750.00	$ 0.00
8. Income from real property	$ 0.00	$ 0.00
9. Interest and dividends	$ 0.00	$ 0.00
10. Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above	$ 0.00	$ 0.00
11. Social security or government assistance (Specify):	$ 0.00	$ 0.00
	$ 0.00	$ 0.00
12. Pension or retirement income	$ 0.00	$ 0.00
13. Other monthly income (Specify):	$ 0.00	$ 0.00
	$ 0.00	$ 0.00
14. SUBTOTAL OF LINES 7 THROUGH 13	$ 9,750.00	$ 0.00
15. AVERAGE MONTHLY INCOME (Add amounts shown on lines 6 and 14)	$ 9,750.00	$ 4,380.00
16. COMBINED AVERAGE MONTHLY INCOME: (Combine column totals from line 15)	$ 14,130.00	

(Report also on Summary of Schedules and, if applicable, on Statistical Summary of Certain Liabilities and Related Data)

17. Describe any increase or decrease in income reasonably anticipated to occur within the year following the filing of this document:
Anticipated increase in debtor income in 2008, decrease in spouse's net income due to increased payroll withholding

B6J (Official Form 6J) (12/07)

In re **Francis Lopez** Case No. ____________
Debtor(s)

SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S)

Complete this schedule by estimating the average or projected monthly expenses of the debtor and the debtor's family at time case filed. Prorate any payments made bi-weekly, quarterly, semi-annually, or annually to show monthly rate. The average monthly expenses calculated on this form may differ from the deductions from income allowed on Form 22A or 22C.

☐ Check this box if a joint petition is filed and debtor's spouse maintains a separate household. Complete a separate schedule of expenditures labeled "Spouse."

1. Rent or home mortgage payment (include lot rented for mobile home)	$ 6,697.00
a. Are real estate taxes included? Yes X No ___	
b. Is property insurance included? Yes X No ___	
2. Utilities: a. Electricity and heating fuel	$ 444.00
b. Water and sewer	$ 85.00
c. Telephone	$ 115.00
d. Other Trash disposal, cable	$ 91.00
3. Home maintenance (repairs and upkeep)	$ 476.00
4. Food	$ 600.00
5. Clothing	$ 170.00
6. Laundry and dry cleaning	$ 80.00
7. Medical and dental expenses	$ 228.00
8. Transportation (not including car payments)	$ 1,088.00
9. Recreation, clubs and entertainment, newspapers, magazines, etc.	$ 0.00
10. Charitable contributions	$ 0.00
11. Insurance (not deducted from wages or included in home mortgage payments)	
a. Homeowner's or renter's	$ 0.00
b. Life	$ 41.00
c. Health	$ 0.00
d. Auto	$ 201.00
e. Other ____	$ 0.00
12. Taxes (not deducted from wages or included in home mortgage payments) (Specify) See Detailed Expense Attachment	$ 1,226.00
13. Installment payments: (In chapter 11, 12, and 13 cases, do not list payments to be included in the plan)	
a. Auto	$ 0.00
b. Other ____	$ 0.00
c. Other ____	$ 0.00
14. Alimony, maintenance, and support paid to others	$ 0.00
15. Payments for support of additional dependents not living at your home	$ 0.00
16. Regular expenses from operation of business, profession, or farm (attach detailed statement)	$ 1,251.00
17. Other See Detailed Expense Attachment	$ 1,336.00
18. AVERAGE MONTHLY EXPENSES (Total lines 1-17. Report also on Summary of Schedules and, if applicable, on the Statistical Summary of Certain Liabilities and Related Data.)	$ 14,129.00

19. Describe any increase or decrease in expenditures reasonably anticipated to occur within the year following the filing of this document:

____

20. STATEMENT OF MONTHLY NET INCOME	
a. Average monthly income from Line 15 of Schedule I	$ 14,130.00
b. Average monthly expenses from Line 18 above	$ 14,129.00
c. Monthly net income (a. minus b.)	$ 1.00

B6J (Official Form 6J) (12/07)

In re Francis Lopez Case No. ____________
Debtor(s)

SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S)
Detailed Expense Attachment

Specific Tax Expenditures:

Vehicle	$	26.00
Income and FICA Debtor estimated	$	1,200.00
Total Tax Expenditures	$	1,226.00

Other Expenditures:

Travel	$	282.00
Est legal expenses	$	750.00
HOA	$	200.00
Bank charges	$	104.00
Total Other Expenditures	$	1,336.00

B6 Declaration (Official Form 6 - Declaration). (12/07)

United States Bankruptcy Court
Central District of California

In re Francis Lopez
Debtor(s)

Case No. ______
Chapter 7

DECLARATION CONCERNING DEBTOR'S SCHEDULES

DECLARATION UNDER PENALTY OF PERJURY BY INDIVIDUAL DEBTOR

I declare under penalty of perjury that I have read the foregoing summary and schedules, consisting of 14 sheets, and that they are true and correct to the best of my knowledge, information, and belief.

Date February 12, 2008

Signature ______
Francis Lopez
Debtor

Penalty for making a false statement or concealing property: Fine of up to $500,000 or imprisonment for up to 5 years or both. 18 U.S.C. §§ 152 and 3571.

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B7 (Official Form 7) (12/07)

United States Bankruptcy Court
~~Central~~ District of California
SOUTHERN

In re **Francis Lopez**, Debtor(s)

Case No. ____

Chapter **7**

STATEMENT OF FINANCIAL AFFAIRS

This statement is to be completed by every debtor. Spouses filing a joint petition may file a single statement on which the information for both spouses is combined. If the case is filed under chapter 12 or chapter 13, a married debtor must furnish information for both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. An individual debtor engaged in business as a sole proprietor, partner, family farmer, or self-employed professional, should provide the information requested on this statement concerning all such activities as well as the individual's personal affairs. To indicate payments, transfers and the like to minor children, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. § 112; Fed. R. Bankr. P. 1007(m).

Questions 1 - 18 are to be completed by all debtors. Debtors that are or have been in business, as defined below, also must complete Questions 19 - 25. **If the answer to an applicable question is "None," mark the box labeled "None."** If additional space is needed for the answer to any question, use and attach a separate sheet properly identified with the case name, case number (if known), and the number of the question.

DEFINITIONS

"In business." A debtor is "in business" for the purpose of this form if the debtor is a corporation or partnership. An individual debtor is "in business" for the purpose of this form if the debtor is or has been, within six years immediately preceding the filing of this bankruptcy case, any of the following: an officer, director, managing executive, or owner of 5 percent or more of the voting or equity securities of a corporation; a partner, other than a limited partner, of a partnership; a sole proprietor or self-employed full-time or part-time. An individual debtor also may be "in business" for the purpose of this form if the debtor engages in a trade, business, or other activity, other than as an employee, to supplement income from the debtor's primary employment.

"Insider." The term "insider" includes but is not limited to: relatives of the debtor; general partners of the debtor and their relatives; corporations of which the debtor is an officer, director, or person in control; officers, directors, and any owner of 5 percent or more of the voting or equity securities of a corporate debtor and their relatives; affiliates of the debtor and insiders of such affiliates; any managing agent of the debtor. 11 U.S.C. § 101.

---

1. Income from employment or operation of business

None ☐

State the gross amount of income the debtor has received from employment, trade, or profession, or from operation of the debtor's business, including part-time activities either as an employee or in independent trade or business, from the beginning of this calendar year to the date this case was commenced. State also the gross amounts received during the **two years** immediately preceding this calendar year. (A debtor that maintains, or has maintained, financial records on the basis of a fiscal rather than a calendar year may report fiscal year income. Identify the beginning and ending dates of the debtor's fiscal year.) If a joint petition is filed, state income for each spouse separately. (Married debtors filing under chapter 12 or chapter 13 must state income of both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

AMOUNT	SOURCE
$8,800.00	**January 1, 2008 - January 28, 2008. Self employment gross income**
$160,000.00	**January 1, 2006 - December 31, 2008. Self employment gross income, estimate.**

2. Income other than from employment or operation of business

None ■

State the amount of income received by the debtor other than from employment, trade, profession, or operation of the debtor's business during the **two years** immediately preceding the commencement of this case. Give particulars. If a joint petition is filed, state income for each spouse separately. (Married debtors filing under chapter 12 or chapter 13 must state income for each spouse whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

AMOUNT	SOURCE

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3. Payments to creditors

None ☐ *Complete a. or b., as appropriate, and c.*

a. *Individual or joint debtor(s) with primarily consumer debts.* List all payments on loans, installment purchases of goods or services, and other debts to any creditor made within **90 days** immediately preceding the commencement of this case unless the aggregate value of all property that constitutes or is affected by such transfer is less than $600. Indicate with an (*) any payments that were made to a creditor on account of a domestic support obligation or as part of an alternative repayment schedule under a plan by an approved nonprofit budgeting and creditor counseling agency. (Married debtors filing under chapter 12 or chapter 13 must include payments by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR	DATES OF PAYMENTS	AMOUNT PAID	AMOUNT STILL OWING
Aurora Loan Services **10350 Park Meadows Dr.** **Littleton, CO 80124**	**11/02/07, 12/03/07, 12/18/07, 01/16/08**	**$23,323.00**	**$749,571.00**
Capital One **PO Box 650007** **Dallas, TX 75265**	**11/06/07, 11/20/07, 12/05/07, 12/19/07, 01/04/08, 1/18/08**	**$2,577.68**	**$369.21**
Cox Communications **PO Box 9001078** **Louisville, KY 40290**	**11/08/07, 12/11/07, 1/10/08**	**$614.25**	**$0.00**
Kelly Plantation Owner's Association **4393 Commons Dr. East** **Destin, FL 32541**	**1/17/08**	**$600.00**	**$0.00**
Law Offices of M. Jonathan Hayes **21800 Oxnard Street, Suite 840** **Woodland Hills, CA 91367**	**11/20/2007**	**$2,000.00**	**$30,076.50**

None ■ b. *Debtor whose debts are not primarily consumer debts:* List each payment or other transfer to any creditor made within **90 days** immediately preceding the commencement of the case unless the aggregate value of all property that constitutes or is affected by such transfer is less than $5,475. If the debtor is an individual, indicate with an asterisk (*) any payments that were made to a creditor on account of a domestic support obligation or as part of an alternative repayment schedule under a plan by an approved nonprofit budgeting and creditor counseling agency. (Married debtors filing under chapter 12 or chapter 13 must include payments by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR	DATES OF PAYMENTS/ TRANSFERS	AMOUNT PAID OR VALUE OF TRANSFERS	AMOUNT STILL OWING

None ■ c. *All debtors:* List all payments made within **one year** immediately preceding the commencement of this case to or for the benefit of creditors who are or were insiders. (Married debtors filing under chapter 12 or chapter 13 must include payments by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR AND RELATIONSHIP TO DEBTOR	DATE OF PAYMENT	AMOUNT PAID	AMOUNT STILL OWING

4. Suits and administrative proceedings, executions, garnishments and attachments

None ☐ a. List all suits and administrative proceedings to which the debtor is or was a party within **one year** immediately preceding the filing of this bankruptcy case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

CAPTION OF SUIT AND CASE NUMBER	NATURE OF PROCEEDING	COURT OR AGENCY AND LOCATION	STATUS OR DISPOSITION
Francis Lopez v. Alan Stanly (and related cross-complaint) Case No. GIN029692	**Civil**	**Superior Court of the state of California, County of San Diego, North County Branch**	**Ongoing / Stayed**

CAPTION OF SUIT AND CASE NUMBER	NATURE OF PROCEEDING	COURT OR AGENCY AND LOCATION	STATUS OR DISPOSITION
Union Bank v. Francis Lopez, Alan Stanly (and related cross-complaints) Case No. GIN030827	**Civil**	**Superior Court of the state of California, County of San Diego, North County Branch**	**Ongoing / Stayed**
Law Offices of Lamar A. Conerly, P.A. v. Francis Lopez, Case No. 07 CC 22445	**Civil**	**County Court of the First Judicial Circuit, Okaloosa County, Florida**	**Ongoing**
Enterprise Technology Holdings, Inc. v. Noveon Systems, Inc., et al. Case No. 05-CV-2236-B(CAB)	**Civil**	**U.S. District Court, Southern District of California**	**Ongoing**
Ft. Walton Beach Medical Center, Inc. v. Francis Lopez, Case No. 01-05-SC-2406	**Civil**	**County Court of the First Judicial Circuit, Okaloosa County, Florida**	**Ongoing**

None ■ b. Describe all property that has been attached, garnished or seized under any legal or equitable process within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF PERSON FOR WHOSE BENEFIT PROPERTY WAS SEIZED	DATE OF SEIZURE	DESCRIPTION AND VALUE OF PROPERTY

5. Repossessions, foreclosures and returns

None ■ List all property that has been repossessed by a creditor, sold at a foreclosure sale, transferred through a deed in lieu of foreclosure or returned to the seller, within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR OR SELLER	DATE OF REPOSSESSION, FORECLOSURE SALE, TRANSFER OR RETURN	DESCRIPTION AND VALUE OF PROPERTY

6. Assignments and receiverships

None ■ a. Describe any assignment of property for the benefit of creditors made within **120 days** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include any assignment by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF ASSIGNEE	DATE OF ASSIGNMENT	TERMS OF ASSIGNMENT OR SETTLEMENT

None ■ b. List all property which has been in the hands of a custodian, receiver, or court-appointed official within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CUSTODIAN	NAME AND LOCATION OF COURT CASE TITLE & NUMBER	DATE OF ORDER	DESCRIPTION AND VALUE OF PROPERTY

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7. Gifts

None ■ List all gifts or charitable contributions made within **one year** immediately preceding the commencement of this case except ordinary and usual gifts to family members aggregating less than $200 in value per individual family member and charitable contributions aggregating less than $100 per recipient. (Married debtors filing under chapter 12 or chapter 13 must include gifts or contributions by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF PERSON OR ORGANIZATION	RELATIONSHIP TO DEBTOR, IF ANY	DATE OF GIFT	DESCRIPTION AND VALUE OF GIFT

8. Losses

None ☐ List all losses from fire, theft, other casualty or gambling within **one year** immediately preceding the commencement of this case **or since the commencement of this case.** (Married debtors filing under chapter 12 or chapter 13 must include losses by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

DESCRIPTION AND VALUE OF PROPERTY	DESCRIPTION OF CIRCUMSTANCES AND, IF LOSS WAS COVERED IN WHOLE OR IN PART BY INSURANCE, GIVE PARTICULARS	DATE OF LOSS
Auto, 1995 BMW, $5,000	**Car Accident, other driver is at fault. $1,587 in damages covered by insurance but yet to be paid.**	**10/27/2007**

9. Payments related to debt counseling or bankruptcy

None ☐ List all payments made or property transferred by or on behalf of the debtor to any persons, including attorneys, for consultation concerning debt consolidation, relief under the bankruptcy law or preparation of the petition in bankruptcy within **one year** immediately preceding the commencement of this case.

NAME AND ADDRESS OF PAYEE	DATE OF PAYMENT, NAME OF PAYOR IF OTHER THAN DEBTOR	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY
Law Offices of M. Jonathan Hayes 21800 Oxnard St. Ste 840 Woodland Hills, CA 91367	**04/16/07**	**$1,000**
Law Offices of M. Jonathan Hayes 21800 Oxnard St. Ste 840 Woodland Hills, CA 91367	**07/10/07**	**$750**
Law Offices of M. Jonathan Hayes 21800 Oxnard St. Ste 840 Woodland Hills, CA 91367	**09/10/07**	**$1,000**
Law Offices of M. Jonathan Hayes 21800 Oxnard St. Ste 840 Woodland Hills, CA 91367	**11/07/07**	**$2,000**

10. Other transfers

None ■ a. List all other property, other than property transferred in the ordinary course of the business or financial affairs of the debtor, transferred either absolutely or as security within **two years** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include transfers by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF TRANSFEREE, RELATIONSHIP TO DEBTOR	DATE	DESCRIBE PROPERTY TRANSFERRED AND VALUE RECEIVED

None ■ b. List all property transferred by the debtor within **ten years** immediately preceding the commencement of this case to a self-settled trust or similar device of which the debtor is a beneficiary.

NAME OF TRUST OR OTHER DEVICE	DATE(S) OF TRANSFER(S)	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY OR DEBTOR'S INTEREST IN PROPERTY

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11. Closed financial accounts

None ■ List all financial accounts and instruments held in the name of the debtor or for the benefit of the debtor which were closed, sold, or otherwise transferred within **one year** immediately preceding the commencement of this case. Include checking, savings, or other financial accounts, certificates of deposit, or other instruments; shares and share accounts held in banks, credit unions, pension funds, cooperatives, associations, brokerage houses and other financial institutions. (Married debtors filing under chapter 12 or chapter 13 must include information concerning accounts or instruments held by or for either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF INSTITUTION	TYPE OF ACCOUNT, LAST FOUR DIGITS OF ACCOUNT NUMBER, AND AMOUNT OF FINAL BALANCE	AMOUNT AND DATE OF SALE OR CLOSING

12. Safe deposit boxes

None ■ List each safe deposit or other box or depository in which the debtor has or had securities, cash, or other valuables within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include boxes or depositories of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF BANK OR OTHER DEPOSITORY	NAMES AND ADDRESSES OF THOSE WITH ACCESS TO BOX OR DEPOSITORY	DESCRIPTION OF CONTENTS	DATE OF TRANSFER OR SURRENDER, IF ANY

13. Setoffs

None ■ List all setoffs made by any creditor, including a bank, against a debt or deposit of the debtor within **90 days** preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR	DATE OF SETOFF	AMOUNT OF SETOFF

14. Property held for another person

None ■ List all property owned by another person that the debtor holds or controls.

NAME AND ADDRESS OF OWNER	DESCRIPTION AND VALUE OF PROPERTY	LOCATION OF PROPERTY

15. Prior address of debtor

None ■ If the debtor has moved within **three years** immediately preceding the commencement of this case, list all premises which the debtor occupied during that period and vacated prior to the commencement of this case. If a joint petition is filed, report also any separate address of either spouse.

ADDRESS	NAME USED	DATES OF OCCUPANCY

16. Spouses and Former Spouses

None ☐ If the debtor resides or resided in a community property state, commonwealth, or territory (including Alaska, Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, or Wisconsin) within **eight years** immediately preceding the commencement of the case, identify the name of the debtor's spouse and of any former spouse who resides or resided with the debtor in the community property state.

NAME
Madeleine Magill Lopez (wife)

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17. Environmental Information.

For the purpose of this question, the following definitions apply:

"Environmental Law" means any federal, state, or local statute or regulation regulating pollution, contamination, releases of hazardous or toxic substances, wastes or material into the air, land, soil, surface water, groundwater, or other medium, including, but not limited to, statutes or regulations regulating the cleanup of these substances, wastes, or material.

"Site" means any location, facility, or property as defined under any Environmental Law, whether or not presently or formerly owned or operated by the debtor, including, but not limited to, disposal sites.

"Hazardous Material" means anything defined as a hazardous waste, hazardous substance, toxic substance, hazardous material, pollutant, or contaminant or similar term under an Environmental Law

None ■ a. List the name and address of every site for which the debtor has received notice in writing by a governmental unit that it may be liable or potentially liable under or in violation of an Environmental Law. Indicate the governmental unit, the date of the notice, and, if known, the Environmental Law:

SITE NAME AND ADDRESS	NAME AND ADDRESS OF GOVERNMENTAL UNIT	DATE OF NOTICE	ENVIRONMENTAL LAW

None ■ b. List the name and address of every site for which the debtor provided notice to a governmental unit of a release of Hazardous Material. Indicate the governmental unit to which the notice was sent and the date of the notice.

SITE NAME AND ADDRESS	NAME AND ADDRESS OF GOVERNMENTAL UNIT	DATE OF NOTICE	ENVIRONMENTAL LAW

None ■ c. List all judicial or administrative proceedings, including settlements or orders, under any Environmental Law with respect to which the debtor is or was a party. Indicate the name and address of the governmental unit that is or was a party to the proceeding, and the docket number.

NAME AND ADDRESS OF GOVERNMENTAL UNIT	DOCKET NUMBER	STATUS OR DISPOSITION

18 . Nature, location and name of business

None ☐ a. *If the debtor is an individual*, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was an officer, director, partner, or managing executive of a corporation, partner in a partnership, sole proprietor, or was self-employed in a trade, profession, or other activity either full- or part-time within **six years** immediately preceding the commencement of this case, or in which the debtor owned 5 percent or more of the voting or equity securities within **six years** immediately preceding the commencement of this case.

If the debtor is a partnership, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities, within **six years** immediately preceding the commencement of this case.

If the debtor is a corporation, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities within **six years** immediately preceding the commencement of this case.

NAME	LAST FOUR DIGITS OF SOCIAL-SECURITY OR OTHER INDIVIDUAL TAXPAYER-I.D. NO. (ITIN)/ COMPLETE EIN	ADDRESS	NATURE OF BUSINESS	BEGINNING AND ENDING DATES
Self-Employment	**1124**	**310 Sand Myrtle Trl Destin, FL**	**Consulting**	**Spring 2006 - Present**
Noveon Systems, Inc.	**2111**	**Destin, FL**	**Software and consulting**	**July 2003 - Spring 2006**
Prism Advanced Technologies, Inc.	**0964**	**Carlsbad, CA**	**Software**	**1996 - 2003**

NAME	LAST FOUR DIGITS OF SOCIAL-SECURITY OR OTHER INDIVIDUAL TAXPAYER-I.D. NO. (ITIN)/ COMPLETE EIN	ADDRESS	NATURE OF BUSINESS	BEGINNING AND ENDING DATES
Cambria Holding, LLC	**9548**	**Carlsbad, CA**	**Real estate holdings**	**2000 - 2003**
F2 Systems Technology, Inc.	**3706**	**Carlsbad, CA**	**Consulting**	**2002 - 2002**

None ■ b. Identify any business listed in response to subdivision a., above, that is "single asset real estate" as defined in 11 U.S.C. § 101.

NAME ADDRESS

The following questions are to be completed by every debtor that is a corporation or partnership and by any individual debtor who is or has been, within **six years** immediately preceding the commencement of this case, any of the following: an officer, director, managing executive, or owner of more than 5 percent of the voting or equity securities of a corporation; a partner, other than a limited partner, of a partnership, a sole proprietor or self-employed in a trade, profession, or other activity, either full- or part-time.

*(An individual or joint debtor should complete this portion of the statement **only** if the debtor is or has been in business, as defined above, within six years immediately preceding the commencement of this case. A debtor who has not been in business within those six years should go directly to the signature page.)*

19. Books, records and financial statements

None ■ a. List all bookkeepers and accountants who within **two years** immediately preceding the filing of this bankruptcy case kept or supervised the keeping of books of account and records of the debtor.

NAME AND ADDRESS DATES SERVICES RENDERED

None ■ b. List all firms or individuals who within the **two years** immediately preceding the filing of this bankruptcy case have audited the books of account and records, or prepared a financial statement of the debtor.

NAME ADDRESS DATES SERVICES RENDERED

None ■ c. List all firms or individuals who at the time of the commencement of this case were in possession of the books of account and records of the debtor. If any of the books of account and records are not available, explain.

NAME ADDRESS

None ■ d. List all financial institutions, creditors and other parties, including mercantile and trade agencies, to whom a financial statement was issued by the debtor within **two years** immediately preceding the commencement of this case.

NAME AND ADDRESS DATE ISSUED

20. Inventories

None ■ a. List the dates of the last two inventories taken of your property, the name of the person who supervised the taking of each inventory, and the dollar amount and basis of each inventory.

DATE OF INVENTORY INVENTORY SUPERVISOR DOLLAR AMOUNT OF INVENTORY (Specify cost, market or other basis)

None ■ b. List the name and address of the person having possession of the records of each of the two inventories reported in a., above.

DATE OF INVENTORY NAME AND ADDRESSES OF CUSTODIAN OF INVENTORY RECORDS

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21 . Current Partners, Officers, Directors and Shareholders

None ■ a. If the debtor is a partnership, list the nature and percentage of partnership interest of each member of the partnership.

NAME AND ADDRESS	NATURE OF INTEREST	PERCENTAGE OF INTEREST

None ■ b. If the debtor is a corporation, list all officers and directors of the corporation, and each stockholder who directly or indirectly owns, controls, or holds 5 percent or more of the voting or equity securities of the corporation.

NAME AND ADDRESS	TITLE	NATURE AND PERCENTAGE OF STOCK OWNERSHIP

22 . Former partners, officers, directors and shareholders

None ■ a. If the debtor is a partnership, list each member who withdrew from the partnership within **one year** immediately preceding the commencement of this case.

NAME	ADDRESS	DATE OF WITHDRAWAL

None ■ b. If the debtor is a corporation, list all officers, or directors whose relationship with the corporation terminated within **one year** immediately preceding the commencement of this case.

NAME AND ADDRESS	TITLE	DATE OF TERMINATION

23 . Withdrawals from a partnership or distributions by a corporation

None ■ If the debtor is a partnership or corporation, list all withdrawals or distributions credited or given to an insider, including compensation in any form, bonuses, loans, stock redemptions, options exercised and any other perquisite during **one year** immediately preceding the commencement of this case.

NAME & ADDRESS OF RECIPIENT, RELATIONSHIP TO DEBTOR	DATE AND PURPOSE OF WITHDRAWAL	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY

24. Tax Consolidation Group.

None ■ If the debtor is a corporation, list the name and federal taxpayer identification number of the parent corporation of any consolidated group for tax purposes of which the debtor has been a member at any time within **six years** immediately preceding the commencement of the case.

NAME OF PARENT CORPORATION	TAXPAYER IDENTIFICATION NUMBER (EIN)

25. Pension Funds.

None ■ If the debtor is not an individual, list the name and federal taxpayer identification number of any pension fund to which the debtor, as an employer, has been responsible for contributing at any time within **six years** immediately preceding the commencement of the case.

NAME OF PENSION FUND	TAXPAYER IDENTIFICATION NUMBER (EIN)

DECLARATION UNDER PENALTY OF PERJURY BY INDIVIDUAL DEBTOR

I declare under penalty of perjury that I have read the answers contained in the foregoing statement of financial affairs and any attachments thereto and that they are true and correct.

Date **February 12, 2008** Signature ______________________

Francis Lopez
Debtor

Penalty for making a false statement: Fine of up to $500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571

None ■ b. If the debtor is a corporation, list all officers, or directors whose relationship with the corporation terminated within **one year** immediately preceding the commencement of this case.

NAME AND ADDRESS	TITLE	DATE OF TERMINATION

23. Withdrawals from a partnership or distributions by a corporation

None ■ If the debtor is a partnership or corporation, list all withdrawals or distributions credited or given to an insider, including compensation in any form, bonuses, loans, stock redemptions, options exercised and any other perquisite during **one year** immediately preceding the commencement of this case.

NAME & ADDRESS OF RECIPIENT, RELATIONSHIP TO DEBTOR	DATE AND PURPOSE OF WITHDRAWAL	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY

24. Tax Consolidation Group.

None ■ If the debtor is a corporation, list the name and federal taxpayer identification number of the parent corporation of any consolidated group for tax purposes of which the debtor has been a member at any time within **six years** immediately preceding the commencement of the case.

NAME OF PARENT CORPORATION	TAXPAYER IDENTIFICATION NUMBER (EIN)

25. Pension Funds.

None ■ If the debtor is not an individual, list the name and federal taxpayer identification number of any pension fund to which the debtor, as an employer, has been responsible for contributing at any time within **six years** immediately preceding the commencement of the case.

NAME OF PENSION FUND	TAXPAYER IDENTIFICATION NUMBER (EIN)

DECLARATION UNDER PENALTY OF PERJURY BY INDIVIDUAL DEBTOR

I declare under penalty of perjury that I have read the answers contained in the foregoing statement of financial affairs and any attachments thereto and that they are true and correct.

Date **February 12, 2008** Signature [signature]
Francis Lopez
Debtor

Penalty for making a false statement: Fine of up to $500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571

PROOF OF SERVICE BY MAIL

STATE OF CALIFORNIA)
) ss:
COUNTY OF LOS ANGELES)

Case: **Francis J. Lopez**
Case No: **05-05926-PBINV**

I am employed in the County of Los Angeles, State of California by the LAW OFFICE OF M. JONATHAN HAYES. I am over the age of 18 and not a party to the within action; my business address is 2180 Oxnard Street, Suite 840, Woodland Hills, CA 91367.

On February 12, 2008, I served on interested parties in said action the within:

DEBTOR'S SCHEDULES A THROUGH J, STATEMENT OF FINANCIAL AFFAIRS

on all interested parties addressed as follows:

L. Scott Kehn
Keehn & Associates
402 W Broadway Ste 1210
San Diego, CA 92101

+ BY EMAIL

☒ **BY MAIL:** I placed the document(s) for collection and deposit in the mail. I am familiar with this firms' practice for the collection and processing of correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on the same day with the postage thereon fully prepaid at Woodland Hills, California, in the ordinary course of business. The documents served were placed in sealed envelopes and placed for collection and mailing following ordinary business practices.

☐ **BY FASCIMILE:** I caused such document to be delivered by facsimile to the offices

I declare under penalty of perjury under the laws of the state of California and of the United States of America that the foregoing is true and correct.

Executed on February 12, 2008 at Woodland Hills, California.

Desmond Hayes
(Type or print name)

(Signature)

DOCKET NUMBER 150

CSD 1100 [10/17/05]

Name, Address, Telephone No. & I.D. No.
M. JONATHAN HAYES (SBN 90388)
21800 Oxnard St., Ste 840
Woodland Hills, CA 91367
(818) 710-3656
(818) 710-3659 fax
jhayes@polarisnet.net

Attorney for Debtor Francis J. Lopez

FILED AC
2008 MAR 12 AM 9:45
CLERK
U.S. BANKRUPTCY CT
SO DIST OF CALIF.
104

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA
325 West "F" Street, San Diego, California 92101-6991

In Re

FRANCIS J. LOPEZ

Debtor.

BANKRUPTCY NO.
05-05926

AMENDMENT

Presented herewith are the original and one conformed copy of the following [Check one or more boxes as appropriate]:

[ ] Petition

[ ] Summary of Schedules

[X] Schedule A & B - Schedule of Real or Personal Property

[X] Schedule C - Schedule of Property Claimed Exempt

[ ] Schedule D, E, or F, and/or Matrix, and/or list of Creditors or Equity Holders - REQUIRES COMPLIANCE WITH LOCAL RULE 1009

- [ ] Adding or deleting creditors (diskette required), changing amounts owed or classification of debt - $26.00 fee required. See instructions on reverse side.
- [ ] Correcting or deleting other information. See instructions on reverse side.

[ ] Schedule G - Schedule of Executory Contracts & Expired Leases

[ ] Schedule H - Schedule of Co-Debtor

[ ] Schedule I - Current Income of Individual Debtor(s)

[ ] Schedule J - Current Expenditure of Individual Debtor(s)

[ ] Statement of Financial Affairs

[ ] Statement of Current Monthly Income and Means Test Calculation (Form B22A)

[ ] Statement of Current Monthly Income (Form B22B)

[ ] Statement of Current Monthly Income and Calculation of Commitment Period and Disposable Income (Form B22C)

Dated: 3/4/08

Signature [signature]
Attorney for Debtor

DECLARATION OF DEBTOR

I [We] FRANCIS J. LOPEZ ____________ and ________________________, the undersigned debtor(s), hereby declare under penalty of perjury that the information set forth in the amendment attached hereto, consisting of__________ pages, and on the creditor matrix diskette, if any, is true and correct to the best of my [our] information and belief.

Dated: 3/3/08 [signature]
Debtor

____
Joint Debtor

CSD 1100

REFER TO INSTRUCTIONS ON REVERSE SIDE

B6A (Official Form 6A) (12/07)

AMENDED

In re **Francis Lopez**, Debtor Case No. ______

SCHEDULE A - REAL PROPERTY

Except as directed below, list all real property in which the debtor has any legal, equitable, or future interest, including all property owned as a cotenant, community property, or in which the debtor has a life estate. Include any property in which the debtor holds rights and powers exercisable for the debtor's own benefit. If the debtor is married, state whether husband, wife, both, or the marital community own the property by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the debtor holds no interest in real property, write "None" under "Description and Location of Property."

Do not include interests in executory contracts and unexpired leases on this schedule. List them in Schedule G - Executory Contracts and Unexpired Leases.

If an entity claims to have a lien or hold a secured interest in any property, state the amount of the secured claim. See Schedule D. If no entity claims to hold a secured interest in the property, write "None" in the column labeled "Amount of Secured Claim." If the debtor is an individual or if a joint petition is filed, state the amount of any exemption claimed in the property only in Schedule C - Property Claimed as Exempt.

Description and Location of Property	Nature of Debtor's Interest in Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption	Amount of Secured Claim
residence located at 310 Sand Myrtle Trail, Destin, FL 32541. Note: This residence is owned by the debtor and his wife as a Tenancy by the Entireties. Listing of the residence on Schedule A is not an admission that the estate has any rights to the residence. Debtor claims the residence exempt as well under Florida law.	**Tenancy by the Entirety with spouse**	**J**	**950,000.00**	**872,367.00**

ONLY CHANGE ON THIS PAGE

Sub-Total >	**950,000.00**	(Total of this page)
Total >	**950,000.00**	

(Report also on Summary of Schedules)

0 continuation sheets attached to the Schedule of Real Property

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B6B (Official Form 6B) (12/07)

AMENDED

In re **Francis Lopez**, Debtor — Case No. ______

ONLY CHANGE IS THIS COL

SCHEDULE B - PERSONAL PROPERTY

Except as directed below, list all personal property of the debtor of whatever kind. If the debtor has no property in one or more of the categories, place an "x" in the appropriate position in the column labeled "None." If additional space is needed in any category, attach a separate sheet properly identified with the case name, case number, and the number of the category. If the debtor is married, state whether husband, wife, both, or the marital community own the property by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the debtor is an individual or a joint petition is filed, state the amount of any exemptions claimed only in Schedule C - Property Claimed as Exempt.

Do not list interests in executory contracts and unexpired leases on this schedule. List them in Schedule G - Executory Contracts and Unexpired Leases.

If the property is being held for the debtor by someone else, state that person's name and address under "Description and Location of Property." If the property is being held for a minor child, simply state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. §112 and Fed. R. Bankr. P. 1007(m).

Type of Property	NONE	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
1. Cash on hand	X			
2. Checking, savings or other financial accounts, certificates of deposit, or shares in banks, savings and loan, thrift, building and loan, and homestead associations, or credit unions, brokerage houses, or cooperatives.		**Checking account, Wachovia Bank, Destin, FL. Note: This account is owned by the debtor and his wife as a Tenancy by the Entireties. Listing of the account on Schedule B is not an admission that the estate has any rights to the funds therein. Debtor claims the funds exempt as well under Florida law.**	J	2,000.00
		Checking account, Compass Bank, Destin, FL	J	44.00
3. Security deposits with public utilities, telephone companies, landlords, and others.	X			
4. Household goods and furnishings, including audio, video, and computer equipment.		**Household Goods and Furnishings**	J	1,500.00
		AV equipment	J	137.50
5. Books, pictures and other art objects, antiques, stamp, coin, record, tape, compact disc, and other collections or collectibles.		**Books, pictures and personal effects**	J	1,500.00
6. Wearing apparel.		**Wearing apparel**	H	500.00
7. Furs and jewelry.		**Jewelry**	H	100.00
8. Firearms and sports, photographic, and other hobby equipment.		**Firearms**	J	150.00
		Sports equipment	J	175.00
		Photographic equipment	J	175.00
9. Interests in insurance policies. Name insurance company of each policy and itemize surrender or refund value of each.		**Term policy only $500,000 face amount on Debtor**	J	0.00

Sub-Total > **6,281.50**
(Total of this page)

3 continuation sheets attached to the Schedule of Personal Property

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B6B (Official Form 6B) (12/07) - Cont.

AMENDED

In re **Francis Lopez**, Debtor Case No. ________

SCHEDULE B - PERSONAL PROPERTY
(Continuation Sheet)

Type of Property	NONE	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
10. Annuities. Itemize and name each issuer.	X			
11. Interests in an education IRA as defined in 26 U.S.C. § 530(b)(1) or under a qualified State tuition plan as defined in 26 U.S.C. § 529(b)(1). Give particulars. (File separately the record(s) of any such interest(s). 11 U.S.C. § 521(c).)	X			
12. Interests in IRA, ERISA, Keogh, or other pension or profit sharing plans. Give particulars.		IRA Citi Smith Barney, Pensacola, FL	H	260.00
13. Stock and interests in incorporated and unincorporated businesses. Itemize.		Prism, Cambria Holdings LLC	H	0.00
14. Interests in partnerships or joint ventures. Itemize.	X		ONLY CHANGE	
15. Government and corporate bonds and other negotiable and nonnegotiable instruments.	X			
16. Accounts receivable.	X			
17. Alimony, maintenance, support, and property settlements to which the debtor is or may be entitled. Give particulars.	X			
18. Other liquidated debts owed to debtor including tax refunds. Give particulars.	X			
19. Equitable or future interests, life estates, and rights or powers exercisable for the benefit of the debtor other than those listed in Schedule A - Real Property.	X			
20. Contingent and noncontingent interests in estate of a decedent, death benefit plan, life insurance policy, or trust.	X			

Sub-Total > 260.00
(Total of this page)

Sheet 1 of 3 continuation sheets attached to the Schedule of Personal Property

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B6B (Official Form 6B) (12/07) - Cont.

AMENDED

In re **Francis Lopez**, Debtor — Case No. ______

SCHEDULE B - PERSONAL PROPERTY

(Continuation Sheet)

ONLY CHANGE

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
21. Other contingent and unliquidated claims of every nature, including tax refunds, counterclaims of the debtor, and rights to setoff claims. Give estimated value of each.		**Francis Lopez v. Alan Stanly, and related cross-complaint, GIN029692 Superior Court of the state of California, County of San Diego, North County Branch**	H	**Unknown**
22. Patents, copyrights, and other intellectual property. Give particulars.	X			
23. Licenses, franchises, and other general intangibles. Give particulars.	X			
24. Customer lists or other compilations containing personally identifiable information (as defined in 11 U.S.C. § 101(41A)) provided to the debtor by individuals in connection with obtaining a product or service from the debtor primarily for personal, family, or household purposes.	X			
25. Automobiles, trucks, trailers, and other vehicles and accessories.		**1995 BMW**	H	**3,400.00**
26. Boats, motors, and accessories.	X			
27. Aircraft and accessories.	X			
28. Office equipment, furnishings, and supplies.		**Office furniture**	H	**2,500.00**
		Computer and office related equipment used in business	H	**500.00**
29. Machinery, fixtures, equipment, and supplies used in business.	X			
30. Inventory.	X			
31. Animals.	X			
32. Crops - growing or harvested. Give particulars.	X			
33. Farming equipment and implements.	X			
34. Farm supplies, chemicals, and feed.	X			

Sub-Total > **6,400.00**
(Total of this page)

Sheet 2 of 3 continuation sheets attached to the Schedule of Personal Property

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• B6B (Official Form 6B) (12/07) - Cont.

AMENDED

In re **Francis Lopez**, Debtor

Case No. ______

SCHEDULE B - PERSONAL PROPERTY

(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
35. Other personal property of any kind not already listed. Itemize.		**Power tools and related**	J	**87.50**

Sub-Total > **87.50**
(Total of this page)

Total > **13,029.00**

Sheet 3 of 3 continuation sheets attached to the Schedule of Personal Property

(Report also on Summary of Schedules)

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B6C (Official Form 6C) (12/07)

AMENDED

In re **Francis Lopez**, Debtor Case No. ______

SCHEDULE C - PROPERTY CLAIMED AS EXEMPT

Debtor claims the exemptions to which debtor is entitled under: (Check one box)
☐ 11 U.S.C. §522(b)(2)
■ 11 U.S.C. §522(b)(3)

☐ Check if debtor claims a homestead exemption that exceeds $136,875.

EACH HAS BEEN CHANGED CHANGED

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Value of Property Without Deducting Exemption
Real Property			
residence located at 310 Sand Myrtle Trail, Destin, FL 32541. Note: This residence is owned by the debtor and his wife as a Tenancy by the Entireties. Listing of the residence on Schedule A is not an admission that the estate has any rights to the residence. Debtor claims the residence exempt as well under Florida law.	11 U.S.C. § 522(b)(3)(B) and Florida Constitution Article 10X s.4	100%	950,000.00
Checking, Savings, or Other Financial Accounts, Certificates of Deposit			
Checking account, Wachovia Bank, Destin, FL. Note: This account is owned by the debtor and his wife as a Tenancy by the Entireties. Listing of the account on Schedule B is not an admission that the estate has any rights to the funds therein. Debtor claims the funds exempt as well under Florida law.	11 U.S.C. § 522(b)(3)(B) and Florida Statutes s. 222.11	100%	4,000.00
Checking account, Compass Bank, Destin, FL	11 U.S.C. § 522(b)(3)(B) and Florida Statutes s. 222.11	100%	88.00
Household Goods and Furnishings			
Household Goods and Furnishings	11 U.S.C. § 522(b)(3)(B) and Florida Constitution Article X s .4	100%	3,000.00
AV equipment	11 U.S.C. § 522(b)(3)(B) and Florida COnstitution Article X s .4	100%	275.00
Books, Pictures and Other Art Objects; Collectibles			
Books, pictures and personal effects	11 U.S.C. § 522(b)(3)(B) Florida COnstitution Article X s .4	100%	3,000.00
Wearing Apparel			
Wearing apparel	Fla. Const. art. X, § 4(a)(2)	100%	500.00
Furs and Jewelry			
Jewelry	Fla. Const. art. X, § 4(a)(2)	100%	100.00
Firearms and Sports, Photographic and Other Hobby Equipment			
Firearms	11 U.S.C. § 522(b)(3)(B) and Florida Constitution Article X s .4	100%	300.00
Sports equipment	11 U.S.C. § 522(b)(3)(B) and Florida Constitution Article X s .4	100%	350.00
Photographic equipment	11 U.S.C. § 522(b)(3)(B) and Florida Constitution Article X s .4	100%	350.00
Interests in IRA, ERISA, Keogh, or Other Pension or Profit Sharing Plans			
IRA Citi Smith Barney, Pensacola, FL	Fla. Stat. Ann. § 222.21(1) and Florida Statute Section 222.22	100%	260.00

1 continuation sheets attached to Schedule of Property Claimed as Exempt

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B6C (Official Form 6C) (12/07) -- Cont.

In re **Francis Lopez**, Debtor   Case No. ______

SCHEDULE C - PROPERTY CLAIMED AS EXEMPT
(Continuation Sheet)

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Value of Property Without Deducting Exemption
Automobiles, Trucks, Trailers, and Other Vehicles			
1995 BMW	Florida Statute Section 222.25	1,000.00	3,400.00
Office Equipment, Furnishings and Supplies			
Office furniture	Fla. Const. art. X, § 4(a)(2)	100%	2,500.00
Computer and office related equipment used in business	Fla. Const. art. X, § 4(a)(2)	100%	500.00
Other Personal Property of Any Kind Not Already Listed			
Power tools and related	11 U.S.C. § 522(b)(3)(B) and Florida Constitution Article X s .4	100%	175.00
Total:		88,262.00	968,798.00

Sheet 1 of 1 continuation sheets attached to the Schedule of Property Claimed as Exempt

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PROOF OF SERVICE BY MAIL

STATE OF CALIFORNIA)
) ss:
COUNTY OF LOS ANGELES)

Case: **In re: Francis J. Lopez**
Case No: **05-05926-PBINV**

I am employed in the County of Los Angeles, State of California by the LAW OFFICE OF M. JONATHAN HAYES. I am over the age of 18 and not a party to the within action; my business address is 2180 Oxnard Street, Suite 840, Woodland Hills, CA 91367.

On March 6, 2008, I served on interested parties in said action the within:

AMENDMENTS TO SCHEDULES A, B AND C

on all interested parties addressed as follows:

Office of the United States Trustee
402 W. Broadway, Suite 630
San Diego, CA 92101

Leslie T. Gladstone
Bankruptcy Trustee
5580 La Jolla Blvd., Suite 613
La Jolla, CA 92037-7651

L. Scott Keehn
Keehn & Associates
402 W. Broadway, Suite 1210
San Diego, CA 92101

☒ **BY MAIL:** I placed the document(s) for collection and deposit in the mail. I am familiar with this firms' practice for the collection and processing of correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on the same day with the postage thereon fully prepaid at Woodland Hills, California, in the ordinary course of business. The documents served were placed in sealed envelopes and placed for collection and mailing following ordinary business practices.

☐ **BY FASCIMILE:** I caused such document to be delivered by facsimile to the offices

I declare under penalty of perjury under the laws of the state of California and of the United States of America that the foregoing is true and correct.

Executed on March 6, 2008 at Woodland Hills, California.

Desmond Hayes
(Type or print name)

[signature]
(Signature)

DOCKET NUMBER 161

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA

Minute Order

Hearing Information:

Debtor:	FRANCIS J. LOPEZ
Case Number:	05-05926-PB7 **Chapter:** 7
Date / Time / Room:	MONDAY, APRIL 07, 2008 10:30 AM DEPARTMENT 4
Bankruptcy Judge:	PETER W. BOWIE
Courtroom Clerk:	MARILYN WILKINSON
Reporter / ECR:	LYNETTE ALVES

Matter:

DEBTOR'S MOTION TO TRANSFER CHAPTER 7 CASE TO NORTHERN DISTRICT OF FLORIDA

Appearances:

M. Jonathan Hayes, ATTORNEY FOR Francis J. Lopez
L. Scott Keehn, Attorney for Alan Stanly, Petitioning Creditor
Leslie T. Gladstone, Trustee

Disposition:

Matter taken under submission. cc: Barbara

DOCKET NUMBER 164

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA

CHIEF JUDGE PETER W. BOWIE, PRESIDING

IN THE MATTER OF: NO. 05-05926

FRANCIS J. LOPEZ

1) ALLEGED DEBTOR'S MOTION FOR SUMMARY JUDGMENT AND ORDER DISMISSING INVOLUNTARY PETITION

2) PETITIONING CREDITORS' MOTION FOR SUMMARY JUDGMENT ON PHASE 1 OF BIFURCATED INVOLUNTARY PETITION, OR ALTERNATIVELY, SUMMARY ADJUDICATION OF FACTS NOT SUBJECT TO MATERIAL DISPUTE

3) STATUS CONFERENCE ON INVOLUNTARY PETITION AND ANSWER

REPORTER'S TRANSCRIPT OF PROCEEDING

SAN DIEGO, CALIFORNIA

MONDAY, JUNE 26, 2006

U.S. BANKRUPTCY COURT
DEPARTMENT FOUR
325 WEST F STREET
SAN DIEGO, CA 92101

BY COLLETTA BROOKS, CSR,RPR
CSR NO. 12589
SAN DIEGO BANKRUPTCY REPORTERS
325 WEST F STREET
SAN DIEGO, CA 92101
(619) 741-0933

APPEARANCES:

FOR THE CREDITOR:

KEEHN & ASSOCIATES
BY: L. SCOTT KEEHN
402 WEST BROADWAY, SUITE 1210
SAN DIEGO, CALIFORNIA 92101
(619) 400-2200

FOR THE ALLEGED DEBTOR:

LAW OFFICE OF M. JONATHAN HAYES
BY: M. JONATHAN HAYES
21800 OXNARD STREET, SUITE 840
WOODLAND HILLS, CALIFORNIA 91367
(818) 710-3656

SAN DIEGO, CALIFORNIA, MONDAY, JUNE 26, 2006

MS. WILKINSON: FOR TODAY ON FRANCIS J. LOPEZ, THREE MOTIONS OR TWO MOTIONS AND THE COURT'S STATUS CONFERENCE, ALLEGED DEBTOR'S MOTION FOR SUMMARY JUDGMENT AND ORDER DISMISSING INVOLUNTARY PETITION; PETITIONING CREDITORS' MOTION FOR SUMMARY JUDGMENT; AND THE STATUS CONFERENCE ON THE PETITION AND THE ANSWER.

APPEARANCES, PLEASE.

MR. KEEHN: GOOD AFTERNOON, YOUR HONOR. SCOTT KEEHN OF ROBBINS & KEEHN APPEARING ON BEHALF OF THE PETITIONING CREDITORS. AND MAY THE RECORD REFLECT THAT ALAN STANLY IS PRESENT AND IN THE COURTROOM.

MR. HAYES: GOOD AFTERNOON, YOUR HONOR. JOHN HAYES, H-A-Y-E-S, FOR THE ALLEGED DEBTOR, FRANCIS LOPEZ WHO IS ALSO IN THE COURTROOM.

THE COURT: MR. KEEHN, LET'S START WITH YOUR MOTION.

MR. KEEHN: THANK YOU, YOUR HONOR.

WELL, YOUR HONOR, THERE WERE MANY THINGS ABOUT THIS MOTION THAT CAME NOT AS A SURPRISE. AND THAT IS TO FIND THAT MOST OF THE CREDITORS IDENTIFIED BY THE DEBTOR ARE NOT QUALIFIED FOR THE CALENDAR 303. BUT WHAT CAME AS EVEN A FURTHER SURPRISE WAS THAT THERE WAS NO REPLY TO OUR OPPOSITION TO THE DEBTOR'S MOTION FOR SUMMARY JUDGMENT ON BOTH COUNTS, NO RESPONSE IN EITHER OF THE --

IN ANY OF THE PAPERS WITH REGARD TO OUR SHAM DECLARATION OR SHAM AFFIDAVIT ATTACK ON MOST OF THE TESTIMONY PROFFERED BY MR. LOPEZ.

THERE WAS ONE SURPRISE THAT DID COME FORWARD AS A RESULT OF SOME OF MR. LOPEZ' OPPOSITION. AND THAT WAS DESPITE THE FACT THAT THEY CLAIM THEY HAD NO RESPONSIVE DOCUMENTS IN RESPONSE TO OUR SUBPOENA, AMERICAN EXPRESS APPEARS TO BE, NEVERTHELESS, A LEGITIMATE CREDITOR AS OF THE TIME AS OF JUNE 30, 2005, WHEN WE FILED THE PETITION. MR. LOPEZ HAS PRODUCED A DOCUMENT THAT APPEARS TO BE CORRESPONDENCE REGULARLY ISSUED FROM AMERICAN EXPRESS SOMETIME IN THE FALL OF 2005 IDENTIFYING AS A SOMEWHAT HIGHER OBLIGATION. AND WE'LL ACCEPT THAT. AND WE RECOGNIZE AT THIS POINT THAT AMERICAN EXPRESS IS, INDEED, A QUALIFYING CREDITOR FOR PURPOSES OF THE COUNT. THAT TAKES THE COUNT FROM ZERO TO ONE. I THINK, YOUR HONOR, AS I INDICATED, YOUR HONOR, IT'S NOW CLEAR THAT AMERICAN EXPRESS IS INDEED A CREDITOR.

I THINK AS THE COURT CAN HAVE, WILL HAVE, ALREADY ASCERTAINED FROM THE SUMMARY STATEMENT OF UNDISPUTED FACTS THAT STATEMENT HAS EVOLVED TO REFLECT BOTH OBJECTIONS PROFFERED BY THE ALLEGED DEBTOR AND OUR RESPONSES AND SO THAT THE REPLY SUMMARY OF UNDISPUTED FACTS I THINK YOU HAVE THE WHOLE STORY. I DON'T THINK

THERE'S SO MUCH OF AN ARGUMENT ABOUT THE LEGAL PRINCIPLES INVOLVED IN THIS CASE AS THIS IS A CASE THAT FOCUSES ON THE EVIDENCE AS IT HAS BEEN GARNERED TO DATE. AND REVIEWING THAT EVIDENCE, YOUR HONOR, I THINK IT'S VERY CLEAR THAT THERE ARE, AND I'M ONLY FOCUSING ON PHASE 1 OF THE BIFURCATED ISSUES, THERE ARE, INDEED, LESS THAN 12 CREDITORS TO BE INCLUDED IN THE SECTION 303 COUNTS, WHICH WOULD MAKE THE PETITION FILED BY MR. STANLY ACTING ALONE A VALID PETITION. I WANT TO DEAL WITH --

THE COURT: I'M GOING TO GET TO THAT BECAUSE I'M STRUGGLING WITH THE 303(B)(2) CONCEPT. YOUR MOVING PAPERS SAY THE COUNT'S ZERO. YOU NOW SAY IT'S AT LEAST ONE WITH AMERICAN EXPRESS, BUT YOUR MOVING PAPERS SAY THE COUNT IS ZERO. 303(B)(2) SAYS THAT IF THERE ARE FEWER THAN 12 SUCH HOLDERS, "SUCH HOLDERS" MEANING PEOPLE WITH A CLAIM BEFORE ENTITIES WITH A CLAIM, IT'S NOT CONTINGENT AS TO LIABILITY AND NOT SUBJECT TO BONIFIDE DISPUTE AS TO EITHER LIABILITY OR NOT; RIGHT? SO ARE WE AGREED ON THAT?

MR. KEEHN: IT INCLUDES AT LEAST THAT. IT ALSO INCLUDES THE VOIDABLE CLAIMS THAT ARE HELD BY ENTITIES.

THE COURT: WE HAVEN'T GOTTEN TO THE EXCLUSION LANGUAGE YET.

MR. KEEHN: OKAY.

THE COURT: NOW WE GET TO THE EXCLUSION LANGUAGE UNDER (B)(2).

MR. KEEHN: IT ALSO EXCLUDES UNDER (B)(1) AFFILIATES.

THE COURT: OKAY.

MR. KEEHN: ALL RIGHT.

THE COURT: WELL, IF YOU EXCLUDE IT UNDER (B)(1) AFFILIATES. THAT'S NOT A HOLDER OF A CLAIM?

MR. KEEHN: WHEN YOU SAY OF "SUCH CLAIM" THE LANGUAGE OF (B)(2) TAKES YOU BACK TO (B)(1). (B)(1) EXCLUDES AFFILIATES.

THE COURT: WELL, ACTUALLY -- WELL, OKAY. THE INSIDER IS EXCLUDED IN (B)(2). (B)(1) DOESN'T SAY ANYTHING ABOUT IT ONE WAY OR THE OTHER.

BUT IF YOU TAKE IT BACK THERE WITH THE (B)(2), MY QUESTION IS WHY ARE WE HERE? HOW ARE WE HERE? I REALIZE YOUR THEORY IS EVEN IF THE NUMBER IS ZERO. BUT (B)(2) SAYS YOU'VE GOT TO HAVE AT LEAST ONE SUCH HOLDER WHOSE CLAIMS EXCEED NOW THE 12,300.

MR. KEEHN: YES.

THE COURT: AND IF YOU CAN'T COUNT THEM --

MR. KEEHN: NOW, YOUR HONOR, THE COUNTING IS ONLY FOR PURPOSES OF DETERMINING THE 12 OR FEWER THRESHOLD. YOU COULD HAVE A CREDITOR THAT HAD RECEIVED A PREFERENCE. THEY COULD STILL QUALIFY AS A PETITIONING

CREDITOR. THEY WOULDN'T BE INCLUDED IN THE COUNT OF 12 OR LESS. THERE ARE TWO DISTINCT ANALYSES THAT HAVE TO GO ON.

THE COURT: OKAY. I UNDERSTAND YOUR THEORY. GO AHEAD.

MR. KEEHN: ALL RIGHT. I WANT TO DEAL WITH THE EVIDENCE, YOUR HONOR, AS IT ADDRESSES PEOPLE EXCLUDED. AND I'M GOING TO DO IT IN THE ORDER IN A DESCENDING ORDER WHERE IT WILL DEAL WITH THE EASIEST CHARACTERS FIRST. AND THAT IS, ALAN STANLY IS LITERALLY AN AFFILIATE BECAUSE HE'S AN INSIDER OF AN AFFILIATE. AND AS WE POINTED OUT IN OUR PAPERS, THOSE ARE EXCLUDED. AND, IN FACT, IT'S THE UNDISPUTED FACTS 121 AND 122 THAT ESTABLISH THAT RELATIONSHIP. AND THOSE ARE UNDISPUTED EVEN BY THE DEBTOR. HE DISPUTES THE CHARACTERIZATION, BUT THE UNDERLYING FACTS THAT LEAD TO THAT CHARACTERIZATION ARE CONCEDED. AND, IN FACT, THIS COURT HAS ALREADY ADDRESSED THAT ISSUE. THAT'S WHY VENUE WAS PROPERLY LAID IN THIS DISTRICT. AND, THERE AGAIN, THAT VENUE WAS TESTED IN A MOTION AT THE BEGINNING POINT OF THE CASE.

THE NEXT EASIEST CATEGORY OF ENTITIES IDENTIFIED ON THE DEBTOR'S EXHIBIT A EASIEST TO DISPOSE OF ARE THOSE THAT ARE NOT CLAIMANTS AT ALL; THOSE WHO DON'T HOLD CLAIMS AGAINST THE DEBTOR. AND WE BEGIN WITH

ALLSTATE FLORIDIAN. AND IF YOU LOOK AT THE UNDISPUTED SECTIONS 35 TO 40, YOU SEE THAT WHAT IS CLEAR IS THAT THE POLICY PERIOD WAS PAID UP THROUGH JULY OF '05. THERE WAS NOTHING NEW AT THAT POINT IN TIME.

THE NEXT CREDITOR THAT ISN'T A CREDITOR IS AMERICAN HOME SHIELD. AND HERE IN LOPEZ' STATEMENT OF UNDISPUTED FACTS, HE, IN FACT, AT 46 HE ADMITS THE UNDERLYING FACTS NECESSARY TO SHOW THAT HERE AGAIN YOU HAVE A POLICY OF INSURANCE THAT WAS IN EFFECT ON THE PETITION DATE AND NOTHING WAS OWED. NOTHING WOULD BE OWED UNTIL THE POLICY CAME TO ITS RENEWAL POINT.

THE SAME THING IS TRUE OF THE COASTAL COMMUNITY INSURANCE. IT'S ANOTHER ONE. WE'VE GOT, IT SAYS, THE CREDITORS DID IN 73 TO 78. IT'S CLEAR THAT THE POLICY STRADDLES THE PETITION DATE, AND SO THERE IS NO DEBT THAT WAS OWED ON THE 30TH OF JUNE.

VALLEY -- EXCUSE ME -- NORTHWEST FLORIDA DAILY IS IN THE SAME CATEGORY. THE EVIDENCE SHOWS THAT THE OBLIGATION WAS PREPAID FOR THREE MONTHS. THE SUBSCRIPTION OBLIGATION IS UNDISPUTED.

NOW, IN REPLY, THE DEBTOR RAISES THE CONTENTION BUT PROVIDES NO SUPPORTING DOCUMENTATION TO SUPPORT THE CONTENTION THAT, IN FACT, HE OWED MONEY: THE $45 HE CLAIMS FOR SOME SORT OF AN ADVERTISEMENT THAT HE HAD PLACED WITH FLORIDA'S -- NORTHWEST FLORIDA DAILY.

AND THE INTERESTING THING ABOUT THAT ARGUMENT IS IT DOESN'T MAKE ANY DIFFERENCE WHETHER HE'S RIGHT OR WRONG. IF HE'S WRONG AND THERE IS NO DOCUMENT TO BACK UP HIS CLAIM, THEN IT'S A NON-CREDITOR BECAUSE EVERYTHING WAS PAID IN ADVANCE AT THAT TIME. IF HE'S CORRECT, THAT THERE WAS YET ANOTHER OBLIGATION CREATED FOR SOME ADVERTISING ACTIVITY, THEN THE DEBTOR'S EXCLUDED BECAUSE THEY RECEIVED A PREFERENCE PAYMENT UNDER 547. THE SAME DOCUMENT THAT SHOWS THAT THE SUBSCRIPTION WAS PREPAID FOR THREE MONTHS ALSO INDICATES THAT THERE WAS A SUBSTANTIAL ARREARAGE THAT WAS PAID AT THE TIME PRE-PETITION. SO THEY'RE OUT ON ONE OF THOSE TWO THEORIES.

THE NEXT CREDITOR THAT ISN'T IS PROGRESSIVE INSURANCE. THIS IS AN AUTOMOBILE INSURANCE POLICY, WHICH LIKE THE OTHER INSURANCE POLICIES, STRADDLED THE ESTATE. I THINK THE EVIDENCE IS CLEAR ON THAT.

THEN WE HAVE VALLEY FORGE LIFE INSURANCE. WE HAVE DOCUMENTARY EVIDENCE THAT WE HAVE REFERENCED IN THE UNDISPUTED STATEMENTS OF FACTS THAT ACTUALLY SHOW INVOICES FOR THIS PARTICULAR POLICY OF LIFE INSURANCE. THE BENEFICIARY IS MRS. LOPEZ. AND SHE IS IDENTIFIED AS THE ACCOUNT DEBTOR. SO MR. LOPEZ OWED THIS ENTITY NO MONEY ON THE PETITION DATE.

THE NEXT CATEGORY OF CLAIMS HOLDERS THAT IS

EASIEST TO EXCLUDE ARE THOSE WHO RECEIVED POST-PETITION PAYMENTS ON THE PRE-PETITION OBLIGATION. FIRST WE HAVE BANK OF AMERICA. AND THERE IN NUMBER 56 OF THE UNDISPUTED FACTS IS CLEARLY EVIDENCE OF PAYMENT HAVING BEEN MADE AFTER JUNE 30TH, SO THEY'RE IN THE 549 CATEGORY.

AND IT'S INTERESTING THAT, NOT NECESSARILY WITH THIS PARTICULAR CREDITOR BUT WITH OTHER CLAIMS, THE DEBTOR ALLUDES TO THE FACT THAT, WELL, SOME OF THESE WERE PAID FROM HIS WIFE'S ACCOUNT NOT HIS. THERE'S NOTHING IN THE MOVING PAPERS OR THE OPPOSING PAPERS OR THOSE SUPPORTING THE MOVING PAPERS FOR THE DEBTOR'S MOTION THAT IDENTIFIED THE ACTUAL SOURCE OF THE PAYMENT, THE EVIDENCE OF IT. SO WE JUST HAVE A CLAIM THAT'S REALLY UNSUPPORTED BY THE EVIDENCE. AND SO THERE'S NOTHING TO INDICATE THAT THESE CLAIMS WOULD NOT BE VOIDABLE UNDER SECTION 549.

CINGULAR WIRELESS. IT'S UNDISPUTED STATEMENT 64. IT ADMITS THE POST-PETITION PAYMENT TO THAT CREDITOR. IT'S A VERY SIMPLE EVIDENCE. AND THERE'S NO EVIDENCE TO SHOW WHY THAT POST-PETITION CLAIM WOULD NOT BE VOIDABLE UNDER SECTION 549. AND IT IS AT THIS POINT IT WAS THE DEBTOR'S BURDEN TO COME FORWARD WITH EVIDENCE TO SHOW THAT IF THE DEBT GOT PAID, IT WAS PAID FROM A SOURCE OTHER THAN THE ESTATE, AND THEREFORE, NOT

VOIDABLE. WE DON'T HAVE ANY OF THAT EVIDENCE IN THE RECORD.

NEXT WE HAVE COX COMMUNICATIONS. THE STATEMENT NUMBER 81 FOCUSES DIRECTLY ON THAT. IT'S CLEARLY A PAYMENT THAT WAS MADE POST-PETITION. AND, AGAIN, NO EVIDENCE TO SHOW THAT THERE'S A DEFENSE TO THAT POST-PETITION PAYMENT.

NEXT IS KELLY PLANTATION OWNERS. WE HAVE STATEMENT NUMBER 92 AND 95 ADMITTING THE PAYMENT. AND NOTHING TO DEMONSTRATE WHY THERE ARE FACTS THAT WOULD SUPPORT AN AVOIDANCE ACTION, SO THEY'RE HOLDING THE CLAIM THAT WOULD BE VOIDABLE UNDER SECTION 549.

NEXT IS THE OKALOOSA GAS DISTRICT. THAT GAS DISTRICT IN THE -- IN FACT, IN 105 AND 106, YOU SEE IN THE DOCUMENTS REFERRED TO YOU, YOU SEE THAT THE JUNE BILL IS PAID IN JULY. POST-PETITION PAID.

SAME THING WITH THE QUICKEN PLATINUM CARD. THE UNDISPUTED CLAIMS 116 TO 20 CLEARLY DEMONSTRATE THAT THEY RECEIVED PAYMENTS POST-PETITION. NO EVIDENCE TO SHOW WHY THOSE PAYMENTS WOULD NOT BE, WOULD NOT BE VOIDABLE.

SAME THING WITH TEXACO. STATEMENTS 123 TO 131 CLEARLY DEMONSTRATE THAT THERE WERE POST-PETITION PAYMENTS MADE ON THIS ACCOUNT.

THE SAME IS TRUE OF VERIZON WIRELESS, STATEMENT

141 IN PARTICULAR INDICATES THAT THERE WERE PAYMENTS POST-PETITION.

THE NEXT CATEGORY OF EXCLUSIONARY FACTS ARE THOSE CLAIMS THAT ARE SUBJECT TO A DISPUTE. HERE WE HAVE BANKCARD SERVICES. AND STATEMENTS 57 TO 60 THAT CLEARLY DEMONSTRATE THE FACT THAT THERE WAS A DISPUTE. I BELIEVE THAT THE STATEMENT, IN FACT, NUMBER 60 IN PARTICULAR, ADDRESSES THAT ISSUE. I'M NOT SURE IF IT IS THIS PARTICULAR ACCOUNT, BUT THERE ARE OTHER ACCOUNTS THAT WERE IDENTIFIED AS DISPUTED THAT THE DEBTOR NOW WANTS TO CONTEND SHOULDN'T COUNT BECAUSE THE DISPUTE'S BEEN RESOLVED, BUT THE TEST DATE FOR THAT ISSUE IS THE PETITION DATE. AND HIS TESTIMONY WAS CLEAR THAT THE DISPUTE EXISTED AS OF THAT DATE.

NEXT WE HAVE THE FORT WALTON MEDICAL CENTER. AND THE TESTIMONY THAT IS REFERRED TO IN UNDISPUTED STATEMENTS 82 TO 84 THE DEBTOR ADMITTED TWICE IN HIS DEPOSITION THERE WAS A DISPUTE. THAT'S WHY HE WASN'T PAYING. BUT IT WAS A DISPUTED CLAIM, SO NOT COUNTED IN THE COUNT.

SIMILARLY, STATEMENTS 138 TO 140 FOR VERIZON IDENTIFY THE EXISTENCE OF A DISPUTE. AND, AGAIN, THIS DISPUTE MIGHT HAVE BEEN RESOLVED LATER. IT MAY NOT EXIST NOW, BUT CLEARLY IT EXISTED AT THE TIME THE PETITION WAS FILED.

THE LAST CATEGORY OF CLAIMS HOLDERS THAT ARE EXCLUDED ARE THOSE THAT RECEIVED PREFERENTIAL PAYMENTS. AND, AGAIN, WE HAVE IDENTIFIED THE UNDISPUTED FACT THAT BANK OF AMERICA, THAT IS, CLEARLY RECEIVED PRE-PETITION PAYMENTS ON ACCOUNT.

LIKEWISE EXHIBIT G TO MY ORIGINAL DECLARATION SHOWS FOR CITY CARD PRE-PETITION PAYMENT.

NUMBERS 87, 88, AND 90 FOR HOUSEHOLD BANK SHOWS THE PREFERENTIAL PAYMENTS.

AND LIKEWISE SECTIONS -- STATEMENTS 96 TO 100 DEMONSTRATE THAT NORTHWEST FLORIDA DAILY RECEIVED PREFERENTIAL PAYMENTS.

FOR QUICKEN PLATINUM, WE HAVE AN UNDISPUTED STATEMENT, AND THE EVIDENCE CITED THEREIN IN 119 THAT ESTABLISHED THAT.

WE HAVE FOR WAYNE WISE, THE DEBTOR'S UNDISPUTED TESTIMONY THAT THAT WAS PAID IN THE PREFERENCE PERIOD. THE DEBTOR HAS RAISED THE ISSUE THAT THIS WAS AN EXTENDED OBLIGATION, SO NOW REALLY -- AND THE PAYMENT WAS MADE IN THE ORDINARY COURSE.

BUT IF YOU LOOK AT THE DOCUMENT ITSELF, THE PAYMENT WAS ACTUALLY DUE IN NOVEMBER OF 2004, WHEN THE RESIDENCE WAS REFINANCED. THERE'S NO DISPUTE THAT THE RESIDENCE WAS REFINANCED AT THAT TIME. AND THE PLAIN LANGUAGE OF THE NOTE INDICATES THAT WAS THE DATE THAT IT

WAS DUE IF THAT SHOULD HAPPEN.

I'VE NOT MENTIONED UNION BANK. THEY'RE ACTUALLY EXCLUDED FOR TWO REASONS. FIRST, THERE'S A WHOLE STRING OF UNDISPUTED FACTS IN 148 TO 163 THAT SHOW THE PAYMENTS THAT PUT THEM IN BOTH THE PRE-PETITION PREFERENCE CATEGORY AND THE POST-PETITION CATEGORY -- POST-PETITION PAYMENT -- CATEGORY.

I WANT TO TAKE JUST A MOMENT IF I MAY AND TRY AND ADDRESS SOME OF THE CONCERNS THAT THE COURT HAS EXPRESSED ABOUT THE IDEA OF EXCLUDING FROM THE COUNT THE PREFERENCE AND OTHER --

THE COURT: YOU ALREADY ENTERED THAT.

MR. KEEHN: OKAY. I WOULD IF I COULD JUST SUPPLEMENT THAT BY POINTING OUT HOW THAT WORKS IN THE DYNAMIC OF AN INVOLUNTARY PETITION. THE --

THE COURT: YOU ENTERED THAT.

MR. KEEHN: OKAY. THANK YOU.

YOUR HONOR, I WOULD POINT OUT AGAIN TO REEMPHASIZE THAT IT WAS THE DEBTOR'S OBLIGATION TO COME FORWARD WITH EVIDENCE TO REFUTE THE PRIMA FACIE CASE WE HAVE MADE IN EVERY CATEGORY. I THINK, YOUR HONOR, IF YOU LOOK AT THE EVIDENCE THAT'S REFERRED TO IN THE SUPPORTING STATEMENT OF UNDISPUTED FACTS THAT EVIDENCE IS OVERWHELMING THAT THESE PEOPLE WERE NOT INCLUDED AS PART OF THE COUNT OF 12 TO GET US TO THE QUESTION OF DO

WE HAVE ENOUGH PETITIONING CREDITORS? THE ANSWER CLEARLY IS YES.

TO THE EXTENT THAT THERE ARE AFFIRMATIVE DEFENSES THAT HAVE BEEN ASSERTED TO SOME OF THE AVOIDANCE ITEMS, I THINK THAT THE IN RE NATIONAL LUMBER AND SUPPLY CASE CITED IN OUR PAPERS MAKES IT VERY CLEAR THAT INSOFAR AS THE PREFERENCE MATTER IS CONCERNED, THERE HAS TO BE EVIDENCE PROFFERED BY THE ALLEGED DEBTOR IN THIS CASE TO SHOW THAT PAYMENTS ARE IN THE ORDINARY COURSE EVEN WITH RESPECT TO PAST PRACTICES OF THE DEBTOR, IN PARTICULAR, CREDITOR AND THAT THEY WERE ORDINARY IN RELATION TO GENERAL BUSINESS STANDARDS. THERE'S NO EVIDENCE OF THAT AT ALL. THERE'S NO ARGUMENT ABOUT IT IN THE PAPERS FILED ON BEHALF OF MR. LOPEZ. IT'S UNADDRESSED BECAUSE IT'S AN UNCURABLE PROBLEM. MR. LOPEZ IS A DISTRESSED CREDITOR. HE EXHIBITS BEHAVIOR THAT IS TYPICAL OF DISTRESSED CREDITORS. AND HE MAKES PREFERENCE PAYMENTS. HE MAKES MINIMUM PAYMENTS TO KEEP VITAL SERVICES IN PLACE. AND THAT'S UNDERSTANDABLE, BUT THE FACT OF THE MATTER IS IT DOESN'T REFUTE THE VERY STRONG, THE COMPELLING, IN FACT, THE CONCLUSIVE EVIDENCE THAT HAS BEEN GARNERED THROUGH THIRD PARTY SUBPOENAS AND THE DEPOSITION OF MR. LOPEZ THAT INDICATE THAT ALL SAVE AMERICAN EXPRESS THESE CREDITORS NEED TO BE EXCLUDED FROM THE COUNT FOR ONE OF THE

REASONS ARTICULATED IN SECTION 303(B).

AND WE THINK THAT MR. STANLY HAS MET HIS BURDEN IN THAT REGARD. WE DON'T THINK THERE IS ANY EVIDENCE THAT'S BEEN INDUCED TO REBUT THAT EVIDENCE, CERTAINLY NO ADMISSIBLE EVIDENCE. I WOULD REITERATE OUR EVIDENTIARY OBJECTIONS AND HOPE THAT IN THE COURT'S RULING AND ASK IN THE COURSE OF RULING ON THIS MATTER, THE COURT WOULD ADDRESS THOSE OBJECTIONS AS WELL. WHEN THAT'S ALL SAID AND DONE, MR. LOPEZ IS FACING A PETITION WITH AN INADEQUATE NUMBER OF CREDITORS. AND HE NEEDS TO ADDRESS THE SECOND.

WE NOW NEED TO ADDRESS THE SECOND OF THESE SUBSTANTIVE ISSUES AS TO WHETHER OR NOT HE IS GENERALLY PAYING HIS DEBTS AS THEY COME DUE. AND WE HAVE NO DOUBT THAT WE ARE GOING TO BE ABLE TO MEET THAT BURDEN AS WELL.

YOUR HONOR INDICATED THAT WE WERE ADDRESSING MY MOTION FIRST, SO I WOULD JUST LEAVE IT AT THAT FOR MY MOTION AND RESERVE THE OPPORTUNITY, THE RIGHT, TO RESPOND TO MR. HAYES' MOTION WHEN WE GET TO THAT.

THE COURT: MR. HAYES, ANY OPPOSITION TO MR. KEEHN?

MR. HAYES: THANK YOU, YOUR HONOR.

ONE THING I'VE LEARNED IN THIS CASE, IN FACT, I'VE ACTUALLY LEARNED MORE THAN ONE THING. ONE MAIN, ONE BIG THING I'VE LEARNED IN THIS CASE IS THAT

MR. KEEHN LEAVES NO STONE UNTURNED. HE FOLLOWS UP. HE DOES HIS HOMEWORK. TO A LARGE EXTENT, I'M IMPRESSED WITH THE AMOUNT OF EFFORT THAT'S BEEN MADE.

THE REASON I SAY THAT IS WE COULD HAVE AVOIDED TODAY. I ACTUALLY EXPECTED TO WALK IN THIS AFTERNOON AND HAVE HIM HAND ME TWO MORE PETITIONING CREDITORS. IF HE WOULD HAVE, THE HUNDRED HOURS WE SPENT WORKING ON THIS WOULD HAVE BEEN IN VAIN. I WARNED MY CLIENT THIS MORNING THAT MAKES THIS WHOLE THING MOOT.

THE POINT IS HE CAN'T FIND TWO MORE PETITIONING CREDITORS. THERE ARE NO OTHER PETITIONING CREDITORS OUT THERE. THERE IS NOBODY ELSE THAT WANTS HIM IN BANKRUPTCY. IN FACT, WE OFFERED TO PAY EVERYBODY. THAT WAS OPPOSED VIGOROUSLY. BUT THE REASON WHY WE'RE HERE TODAY IS BECAUSE THERE'S ONLY ONE PERSON THAT REALLY WANTS HIM IN BANKRUPTCY.

THE SECOND COMMENT I WOULD MAKE BEFORE REALLY GOING INTO THE DETAILS OF ALL OF THESE CREDITORS IS THE CONCEPT OF THE SHAM DECLARATION. MR. KEEHN ATTACKS THE ENTIRE DEBTOR'S EXAM THAT WAS TAKEN PRIOR TO THE BANKRUPTCY BEING FILED, WHICH BY THE WAY ON THURSDAY WILL BE ONE YEAR AGO. ONE OF THE QUESTIONS THAT WAS ASKED EARLY ON IN THE DEPOSITION AFTER TWO PAGES OF DISCUSSING CREDIT CARDS, HE WAS ASKED: "SO ARE THERE ANY OTHER DEBTS?"

MR. LOPEZ SAID: "NO. THAT'S ALL I CAN THINK OF RIGHT NOW," ON PAGE 22.

TWO SENTENCES LATER HE SAYS, "CREDIT CARD DEBT?" AND "YES. THAT'S ALL I CAN THINK OF RIGHT NOW."

THE NEXT COUPLE OF PAGES THEY TALK ABOUT MR. WISE, THE DEBT TO MR. WISE. THEY TALK ABOUT THE DEBT TO THE BROTHER, THE DEBT TO HIS FATHER.

ON PAGE 58, THE QUESTION ASKED WAS, "DO YOU HAVE ANY MEDICAL DEBTS?"

"YES."

"TO WHOM?"

"THERE ARE PROBABLY SEVERAL OF THEM. ONE MIGHT BE FORT WALTON BEACH MEDICAL CENTER."

ON PAGE 64, "DO YOU HAVE ANY GIANT DEBT WITH YOUR WIFE OTHER THAN THE HOME MORTGAGE?"

"YES. THERE ARE PROBABLY SOME JOINT CREDIT CARD DEBT."

THE ONLY THING THAT WAS WASN'T DISCUSSED IN THE DEPOSITION REGARDING CREDITORS IS YOUR PHONE BILLS, THE GAS BILL YOU OWE. IN FACT, I REMEMBER MR. STANLY TELLING ME, "I THINK THIS IS EVERYBODY."

I SAID, WHAT ABOUT YOUR PHONE BILL? MOST PEOPLE, IF YOU ASK THEM, DO YOU HAVE ANY DEBTS, THEY WON'T THINK OF THE PHONE BILL THAT'S DUE NEXT THURSDAY AS BEING A DEBT THAT THEY HAVE RIGHT NOW.

SO YOU SHOULD BE ABLE TO TELL JUST BY THE MASSIVE AMOUNT OF EFFORT THAT'S BEEN MADE IN THIS CASE THAT MR. LOPEZ IS NOT FLIP FLOPPING.

ONE OF THE BASIS BEHIND THIS SHAM DECLARATION IS HE'S DENYING THAT MR. LOPEZ IS AN INSIDER. THAT'S ANOTHER THING I LEARNED IN THIS CASE. I FIRST SORT OF CHUCKLED WHEN I HEARD THAT HE WAS AN INSIDER. THEN I READ THE CODE SECTION MORE CAREFULLY. AND I CAN SEE THAT AS AN INSIDER OF AN AFFILIATE, IT MAKES HIM AN INSIDER. BUT THAT'S MY FAULT, NOT MR. LOPEZ'.

BUT WHAT THIS IS ABOUT IS THE HOME. UNDISPUTED FACT NUMBER 26 IS SAYING NOW THAT THE ONLY ASSETS MR. LOPEZ OWNS IS HIS HOME AND MAYBE $10,000 OF OTHER THINGS. THE COURT MIGHT RECALL THAT WHEN I FILED A MOTION TO TRANSFER THIS CASE AT THE BEGINNING OF THE CASE ALMOST A YEAR AGO, THE RESPONSE WAS HE'S GOT ALL THESE BUSINESSES. HE'S GOT ALL OF THESE OPERATIONS GOING ON IN CALIFORNIA. THAT'S WHY IT'S ABSOLUTELY CRITICAL THAT IT STAY IN CALIFORNIA. WE NEED A TRUSTEE TO HANDLE ALL OF THESE THINGS. AND NOW THEY HAVE MADE AN UNDISPUTED FACT. THE ONLY THING HE OWNS IS HIS HOME. IT'S HELD BY THE TENANCY BY THE ENTIRETIES IN FLORIDA. IT'S EXEMPT UNDER SECTION 522(B)(3) OF THE BANKRUPTCY CODE. THEY KNOW THAT VERY WELL BECAUSE THEY TRIED TO LEVY ON IT IN FLORIDA AND WERE UNABLE TO BECAUSE THE

TENANCY BY THE ENTIRETIES PROTECTS IT.

GOING THROUGH, WHAT I THOUGHT I WOULD DO, IS I WENT TO PAGE 12 OF THE MEMORANDUM OF POINTS AND AUTHORITIES SUPPORTING THE MOTION FOR SUMMARY JUDGMENT. I JUST WENT DOWN THE LINE, WHICH I CAN DO QUICKLY NOW.

ALLSTATE FLORIDIAN, THERE'S A DISPUTE. MR. LOPEZ SAYS PAYMENTS WERE MADE FROM AN ESCROW ACCOUNT. IT'S NOT IMPORTANT FRANKLY.

CREDIT CARD DEBT. THEY'VE ACCEPTED THAT AMERICAN EXPRESS IS A CREDITOR.

THE AMERICAN HOMESHIELD. THAT IS NOT A CREDITOR. WE WILL ADMIT THAT.

AS TO BANK OF AMERICA, THERE ARE SUPPOSEDLY PREFERENCES BEING MADE. THERE WAS A $50 PAYMENT ON MAY 6TH TO A CREDIT CARD. I MEAN, TO ESTABLISH THAT'S PREFERENCE, THEY HAVE TO SHOW IT WAS MADE OUTSIDE OF THE ORDINARY COURSE OF BUSINESS. I MEAN, IT JUST SEEMS TO BE WITHOUT -- I DON'T KNOW WHY THEY DO A TRIAL IF THERE'S GOING TO BE A TRIAL OVER THIS ISSUE. I MEAN, I DON'T SEE HOW A $50 PAYMENT TO A CREDIT CARD COMPANY CAN BE NOT MADE IN THE ORDINARY COURSE OF THE BUSINESS.

AS TO SECTION 549 CLAIMS, IT'S NOT JUST BANK OF AMERICA. THIS WILL APPLY TO ALL THE 549 CLAIMS OR THE 549 EXCUSES AS TO WHY THIS ISN'T A CREDITOR. 549 SAYS: "A TRANSFER OF PROPERTY OF THE ESTATE POST-PETITION CAN

BE AVOIDED. WAGES EARNED BY THE DEBTOR AFTER JUNE 30 ARE NOT THE PROPERTY OF THE ESTATE PURSUANT TO THE BANKRUPTCY CODE IN SECTION 541." PAYMENTS MADE BY MRS. LOPEZ ARE NOT PROPERTY OF THE ESTATE. THE ONLY PROPERTY THAT'S GOING TO BE PROPERTY OF THE ESTATE IN ANY EVENT IS THE HOME AND MAYBE $10,000 WORTH OF SOMETHING ELSE. THERE ARE NO POST-PETITION TRANSFERS OF THE PROPERTY OF THE ESTATE. THERE ARE POST-PETITION PAYMENTS TO CREDITORS, BUT THEY ARE NOT AVOIDABLE UNDER SECTION 549.

AS TO BANKCARD SERVICES OF THE DEBTOR -- OF THE ALLEGED DEBTOR -- MR. LOPEZ TESTIFIED IN HIS DECLARATION THAT THERE WAS A SIMPLE MISUNDERSTANDING OVER HOW HE WAS BEING CHARGED. THAT'S NOT A BANKCARD SERVICES.

CINGULAR WIRELESS. THERE'S NO EVIDENCE OFFERED OF HOW THAT CAN BE A PREFERENCE, BUT I WOULD LIKE TO POINT OUT ON THESE THERE'S I THINK THERE'S THREE TELEPHONE BILLS CREDITORS AND ONE OTHER UTILITY.

MR. KEEHN, IN HIS OPPOSITION TO OUR MOTION, DISCUSSED THE ISSUE OF WHETHER OR NOT MR. LOPEZ WAS PAYING HIS DEBTS AS THEY GENERALLY BECAME DUE. HE MADE THE COMMENT IN THERE THAT THE ONLY THING MR. LOPEZ WAS PAYING GENERALLY AS THEY BECAME DUE IS HIS UTILITIES AND HIS PHONE COMPANIES, WHICH IS FAIRLY OBVIOUS. IF YOU DON'T PAY THE PHONE BILL, IT'S SHUT OFF. THE REASON I BRING THAT UP IS HOW CAN A PAYMENT ON A PHONE BILL BE

OUTSIDE OF THE ORDINARY COURSE OF BUSINESS? THEREFORE, IT CAN'T BE A PREFERENCE.

ANYWAY, AS TO CINGULAR WIRELESS MOBILE PHONE, THERE IS NO PREFERENCE. THERE IS NO POST-PETITION TRANSFER OF PROPERTY TO THE ESTATE.

AS TO CITY CARDS, THAT WAS AN AUTOMATIC DEDUCTION OF $379. I BELIEVE THERE WAS THREE PAYMENTS, WHICH MR. KEEHN SAYS IS AN AVOIDABLE PREFERENCE. THOSE ARE AUTOMATIC DEDUCTIONS.

AS TO COX COMMUNICATIONS, AGAIN, THE TELEVISION AND THE INTERNET. HE SAYS THAT THEY ARE NOT A CREDITOR BECAUSE THERE WERE POST-PETITION TRANSFERS NOT OF PROPERTY OF THE ESTATE.

FORT WALTON BEACH MEDICAL CENTER. THE ALLEGATION IS THAT WAS DISPUTED. MR. LOPEZ EXPLAINED THERE WAS A DISPUTE. HE THOUGHT THE INSURANCE WAS GOING TO PAY IT. THE DISPUTE WAS WITH THE INSURANCE COMPANY, NOT WITH FORT WALTON BEACH MEDICAL CENTER.

AS TO HOUSEHOLD BANK, THE ALLEGATION IS THAT THERE WERE TWO PREFERENTIAL TRANSFERS. THEY WERE $50 TO A CREDIT CARD COMPANY. I CAN'T -- I DON'T KNOW WHAT ELSE I CAN SAY ABOUT THAT. I GUESS IF WE GO TO TRIAL, HE WOULD HAVE TO PROVE THE SEVEN FACTORS OF A PREFERENCE.

KELLY PLANTATION OWNERS ASSOCIATION. HE SAYS

THERE'S A POST-PETITION TRANSFER. I'VE ANSWERED THAT.

NORTHWEST FLORIDA DAILY NEWS. THAT MR. KEEHN TALKED ABOUT IT SURPRISED ME. THEY ARE A NON-CREDITOR. THEY ARE ACTUALLY ONE OF THE PETITIONING CREDITORS IN THIS CASE. MR. KEEHN WENT OUT AND FOUND THEM AND SENT THEM AN APPLICATION TO BECOME A PETITIONING CREDITOR. IT WAS ALREADY FILLED OUT EXCEPT FOR THE AMOUNT. THE AMOUNT TURNED OUT TO BE $69. AND HE GOT SOME BOOKKEEPER IN FLORIDA TO SIGN THIS THING SAYING, WE'LL BE A PETITIONING CREDITOR. NOW HE SAYS RIGHT HERE ON PAGE 12 THEY'RE NOT A CREDITOR AT ALL.

THE OKALOOSA GAS DISTRICT. THAT'S UTILITIES. HOW CAN THAT BE PAID NOT IN THE ORDINARY COURSE OF BUSINESS?

THE AUTOMOBILE INSURANCE. I THINK WE WOULD HAVE SOMETHING TO SAY ABOUT THAT IF THERE WAS ACTUALLY GOING TO BE A TRIAL, BUT --

QUICKEN PLATINUM CARD. THERE WAS A $32 PAYMENT ONE MONTH AND AN $18 PAYMENT THE OTHER MONTH. THE ALLEGATION IS THOSE ARE PREFERENCES.

MR. STANLY. OKAY. HE'S AN INSIDER.

TEXACO. THERE WAS ONE $40 PAYMENT AND ONE $20 PAYMENT ON A GASOLINE CREDIT CARD. THE ALLEGATION IS THAT THOSE ARE PREFERENCES.

THE UNION BANK OF CALIFORNIA. THE AGREEMENT

WAS THAT THAT WOULD BE PAID $1000 PER MONTH. THERE WERE TWO PAYMENTS MADE OF $500 EACH ON APRIL 13 OF '05, I BELIEVE. ANYWAY, THAT, IN FACT, HAS BEEN PAID IN FULL NOW, BUT THE AGREEMENT THAT MR. LOPEZ HAD WITH UNION BANK OF CALIFORNIA WAS THAT HE WOULD PAY $1000 A MONTH, AND HE'S PAID IT.

THE VALLEY FORGE LIFE INSURANCE. I'M SORT OF CURIOUS MYSELF WHETHER HE WAS BUYING INSURANCE OR WHETHER HE WAS PAYING BACK SOME LOAN WHETHER THEY'RE A CREDITOR AT ALL. SO I'LL SKIP THAT.

THE VERIZON WIRELESS AGAIN. THE ALLEGATION IS IT WAS DISPUTED. MR. LOPEZ SAYS IT WAS NOT DISPUTED. HE HAD A QUESTION ABOUT THE ACCOUNT. HE'S PAID THE ACCOUNT IN FULL NOW.

MR. WISE. THE ALLEGATION IS HE RECEIVED PREFERENCE PAYMENTS MADE TO MR. WISE. THERE WAS ONE PAYMENT OF $900, I BELIEVE, THAT WAS MADE BY MADELINE LOPEZ PREFERENCES AS THE TRANSFER OF PROPERTY OF THE ESTATE PRIOR TO THE 90 DAYS PRIOR TO THE BANKRUPTCY. THAT'S NOT PREFERENCE.

MR. LOPEZ DID ADD ONE MORE CREDITOR, JEFFREY SMITH, AN ATTORNEY THAT HE HAD RETAINED THAT HE FORGOT THAT HE OWED.

I'M A LITTLE UNCLEAR MYSELF WHETHER THESE MORTGAGES ARE CREDITORS OF THE ESTATE. MR. KEEHN HAS

POINTED OUT VARIOUS PLACES THAT THEY ARE, AND, AGAIN, WHEN HE WAS ARGUING THAT HE'S NOT PAYING HIS DEBTS GENERALLY AS THEY BECOME DUE, HE TALKED ABOUT THE DEBTOR'S MORTGAGE OBLIGATIONS.

I COULD GO BACK AND SUMMARIZE THAT, BUT WHAT HE HAS TO SHOW, WHAT WE HAVE TO SHOW, WHAT MR. KEEHN HAS TO SHOW IS THAT THERE WAS MORE THAN 12 OR MORE. THAT THERE WAS LESS THAN 12 OR MORE. 12 PRE-PETITIONING CREDITORS, WHICH AIN'T GOING TO HAPPEN. MORE THAN 12 IS THE SAME THING. I MEAN, I SUPPOSE THAT BY THE SLIMMEST FINGERNAIL YOU MIGHT HAVE, WELL, THERE'S A FACTUAL DISPUTE WHETHER THERE WERE PREFERENCES OR NOT, WHETHER THESE LITTLE PAYMENTS MADE TO CREDIT CARD DEBTS WERE ACTUALLY PREFERENCES.

JUST ONE LAST COMMENT IN CLOSING. I HOPE THE COURT CAN SEE AT THIS POINT THAT THIS IS A TWO-PARTY DISPUTE. THERE IS OTHER LITIGATION GOING ON. THIS IS SIMPLY ONE MORE SWORD BY A CREDITOR OF MR. LOPEZ WHO HAS UNLIMITED AMOUNTS OF MONEY, APPARENTLY, TO HIRE ATTORNEYS. THIS IS NOT ABOUT BANKRUPTCY. THIS IS NOT ABOUT SOME TRUSTEE NOW IN SAN DIEGO, THEORETICALLY, WHO WOULD BE TRYING TO SETTLE MR. LOPEZ' HOME IN FLORIDA FIGHTING OVER THE FLORIDA EXEMPTION STATUTE. THIS BANKRUPTCY -- THIS INVOLUNTARY SHOULD BE DISMISSED. THANK YOU.

THE COURT: MR. KEEHN, BRIEFLY.

MR. KEEHN: YES. THANK YOU, YOUR HONOR.

A COUPLE OF THINGS. MR. HAYES ASKED HOW CAN A $49 PAYMENT BE A PREFERENCE? WELL, CONGRESS ANSWERED THAT QUESTION FOR US WHEN IT ENACTED THE NEW ACT. AND IT PUT A FLOOR ON PREFERENCE PAYMENTS AT $5,000. THAT'S CHANGED THE LAW. IT DOESN'T MATTER WHAT THE AMOUNT IS IF IT MEETS THE OTHER ELEMENTS OF PREFERENCE. IT IS A PREFERENCE AND AVOIDABLE. AND SOME OF THE CONSTERNATION REQUESTS BY MR. HAYES IS NO DOUBT A LARGE PART OF WHY THE CONGRESS PUT THE LIMIT IN WHEN THEY DID. THAT LIMIT DOESN'T APPLY TO THIS CASE. THEY ARE PREFERENCES.

AND COUNSEL HAS IT WRONG WITH REGARD TO SEVEN ELEMENTS OF PREFERENCE. THERE ARE FIVE ELEMENTS OF PREFERENCE.

IF YOU LOOK AT 547 AND THEY DO NOT INCLUDE COMING FORWARD TO SHOW ORDINARY COURSE. THE LAW IS CLEAR. THE ORDINARY COURSE OF BUSINESS EXCEPTION, JUST LIKE THE NEW VALUE EXCEPTION, THOSE ARE AFFIRMATIVE DEFENSES THAT MUST BE PLEAD AND PROVED BY THE PARTY ASSERTING THEM. IN THIS CASE, IT'S THE ALLEGED DEBTOR. AND HE HAS CERTAINLY ASSERTED THEM. HE HAS SIMPLY NOT SUPPORTED THE ASSERTION WITH ANY EVIDENCE.

AS TO THE NORTHWEST FLORIDA DAILY, YES, WE DID OFFER THAT ENTITY THE OPPORTUNITY TO JOIN IN THE

PETITION. AND WE DID THAT SHORTLY AFTER MR. LOPEZ BELATEDLY COMES UP WITH HIS EXHIBIT A TELLING US WHO ALL THE CREDITORS ARE. SO WE TAKE THAT AT FACE VALUE, AND WE GO FORWARD, AND WE GOT A RESPONSE BACK FROM THAT ENTITY TO JOINING. WHEN WE RECEIVED THE DISCOVERY FROM MR. LOPEZ -- I BELIEVE IT WAS FROM MR. LOPEZ -- THAT'S THE FIRST TIME WE SAW THE RECEIPT THAT SHOWED THAT HE PREPAID. SO THERE'S NO REAL MYSTERY THERE. AND NOW THEY'RE EITHER NOT A CREDITOR BECAUSE THEY WERE PAID IN FULL OR IF THERE WAS SOMETHING OWED THEY RECEIVED A PREFERENCE.

MR. HAYES MAKES A WONDERFUL LEGAL ARGUMENT TO YOU THAT IS ABSOLUTELY UNSUPPORTED BY ANY EVIDENCE OR ANY CITATION OF AUTHORITY. HE ASKS YOU TO ASSUME BY A LEAP OF FAITH THAT MR. LOPEZ MADE PAYMENTS FROM WAGES EARNED, AND SO WE CAN'T DEMONSTRATE THAT MONEY TRANSFERS WERE AVOIDABLE BECAUSE IT CAME FROM PROPERTY OF THE ESTATE. HE'S MISSING A COUPLE OF POINTS.

NUMBER ONE, THAT IT DIDN'T COME FROM PROPERTY OF THE ESTATE LIKE ORDINARY COURSE IS AN AFFIRMATIVE DEFENSE. IT'S NOT OUR BURDEN TO SHOW AND DISAPPROVE AN AFFIRMATIVE DEFENSE. TO THE CONTRARY, IT IS THE DEBTOR'S BURDEN TO COME FORWARD AND SHOW THE EVIDENCE THAT ESTABLISHES THAT IT WAS NOT PROPERTY OF THE ESTATE. WE HAVE AN INDIVIDUAL DEBTOR WHOSE TESTIMONY IN HIS

DEPOSITION WAS THAT HE DOESN'T GET ANY WAGES. HIS TESTIMONY IN DEPOSITION WAS THAT HE GETS PAID ONLY FROM TWO SOURCES OTHER THAN A RELATIVELY NOMINAL AMOUNT THAT HE GOT IN CONNECTION WITH HIS INSURANCE ACTIVITY, WHICH IS NOT ENOUGH TO COVER ALL OF THESE PAYMENTS. BUT HE SAYS THAT HIS TWO SOURCES OF PAYMENTS WERE A LICENSE FEE THAT HE GETS FROM NOVEON FOR SOME SOFTWARE THAT HE CLAIMS TO HAVE LICENSED AND A PROFIT SHARING ARRANGEMENT, WHICH IS NOT A WAGE. IT'S A PROFIT SHARING ARRANGEMENT. IF YOU LOOK AT HIS TESTIMONY IN THE DEPOSITION IN THAT REGARD, IT'S VERY CLEAR HE'S NOT TALKING ABOUT A WAGE. SO SIMPLY PUT, THERE ARE NO WAGES FOR MR. LOPEZ TO HAVE PAID THE POST-PETITION PAYMENTS FROM. AND AS FAR AS THE EVIDENCE GOES, THE TESTIMONY OF MADELINE LOPEZ WAS THAT SHE GETS NOTHING FROM NOVEON EITHER. SO WHERE WERE THESE PAYMENTS? WHERE DID THEY COME FROM? WHAT ACCOUNT DID THEY COME FROM? WHAT IS THE SOURCE OF THE ACCOUNT? THESE ARE THE THINGS THAT ESTABLISH THE AFFIRMATIVE DEFENSE THAT HE ALLUDES TO BUT ASKS YOU TO EMBRACE IN A LEAP OF FAITH.

THE NEXT THING HE ASKS YOU TO EMBRACE WITHOUT -- THAT IS A DIFFICULT LEGAL CHALLENGE, AND HE ASKS YOU TO TAKE IT SIMPLY ON FAITH AND ARGUMENT WITHOUT A SINGLE CITATION OF THE AUTHORITY, AND THAT IS THE TENANCY BY THE ENTIRETIES OF THE PROPERTY. WE ATTACHED

THE WARRANTY DEED BY WHICH THE LOPEZES TOOK TITLE TO THIS PROPERTY AS PART OF THE EXHIBITS THAT WE ATTACHED. I DON'T THINK THERE'S ANY DISPUTE OF WHAT THAT WARRANTY SAYS. IT SAYS FRANCIS AND MADELINE, HUSBAND AND WIFE, PERIOD. END OF STORY. THERE IS NO OCCASION THAT'S HELD IN TENANCY BY THE ENTIRETIES. NOW, IF THERE'S SOME FEATURE OF FLORIDA LAW THAT MAKES IT AUTOMATIC, I HAVEN'T HEARD IT. I HAVEN'T SEEN IT. NEITHER HAS THIS COURT. CERTAINLY IT'S NOT IN THE PAPERS THAT HAVE BEEN FILED BY THIS ALLEGED DEBTOR. SO THE THRESHOLD QUESTION OF WHETHER OR NOT IT'S HELD IS BY TENANCY AS TENANCY BY THE ENTIRETIES HAS NOT BEEN PROVEN. THE ONLY EVIDENCE THAT'S IN THE RECORD SHOWS THEY'RE HUSBAND AND WIFE.

THE NEXT QUESTION WITH REGARD TO TENANCY BY THE ENTIRETIES THAT ISN'T ANSWERED IS WHETHER OR NOT IF IT IS TENANCY BY ENTIRETIES WHETHER THAT WILL WITHSTAND AN AVOIDANCE ACTION IN THE BANKRUPTCY CASE ITSELF.

AND LET ME TAKE YOU BACK TO THE RECORD AS IT WAS DEVELOPED IN CONNECTION WITH THE MOTION TO CHANGE VENUE. THERE, AS PART OF THE EVIDENCE, IT BECAME CLEAR THAT THE PROPERTY HELD IN CALIFORNIA IN CARLSBAD, CALIFORNIA WAS SOLD AT TENS OF THOUSANDS OF DOLLARS UNDER THE MARKET SO THAT LOPEZ COULD QUICKLY RETREAT TO FLORIDA. THAT WAS WITHIN A YEAR OF FILING THE PETITION. THAT WAS FOR THE PURPOSE A TRUSTEE MIGHT WELL ALLEGE FOR

PUTTING THAT ASSET BEYOND THE REACH OF CREDITORS. SO IF THERE WAS A TRANSFER INTO THE FLORIDA RESIDENCE FOR THE PURPOSE OF CREATING THIS LARGER EXEMPTION. THAT MAY NOT WITHSTAND THE EXEMPTION CHALLENGE. AND WE HAVE ONE OF THE ASPECTS OF THE NEW CODE THAT IS APPLICABLE TO THIS CASE IS THE LOOK BACK ON EXEMPTIONS WHERE WE ARE WITHIN THE STATUTORY PERIOD, AND WE'RE WITHIN IT, THE DEBTOR TRANSFERS PROPERTY TO ANOTHER STATE TO BASICALLY EXPAND HIS EXEMPTIONS. THEN YOU REVERT BACK TO THE EXEMPTION LAW OF THE OLD STATE. THIS IS THE REASON WHY WE SAID IN OUR PAPERS THAT HIS HOME STATE EXEMPTION IS AT LEAST $75,000. THE GENTLEMAN IS AT RISK OF HAVING THE HOMESTEAD EXEMPTION UNDER FLORIDA LAW DISALLOWED FOR THE REASONS THAT I'VE JUST SUMMARIZED.

NOW LOTS AND LOTS OF TALK ABOUT ORDINARY COURSE PAYMENTS. WHAT HE IGNORES IS THE EVIDENCE THAT WE HAVE PRODUCED TO SHOW, FOR EXAMPLE, THAT THERE ARE SEVERAL CASES OF LATE PAYMENTS. THERE ARE OVER THE LIMIT CHARGES BEING MADE. THERE ARE LESS THAN MINIMUM PAYMENTS DUE. THIS IS TRUE FOR AMERICAN EXPRESS, WHICH IS WAY LATE. BUT I GUESS WE'RE NOT TALKING ABOUT PAYMENTS TO THEM. BUT BANK OF AMERICA GOT PENALTY RATES PAST DUE. SAME THING FOR CINGULAR, CITY CARDS, HOUSEHOLD BANK, NORTHWEST -- EXCUSE ME -- NO. OKALOOSA. THERE'S THE LATE CHARGES FOR APRIL AND JUNE SHOWN ON

THERE. THAT'S NOT THE ORDINARY COURSE OF BUSINESS. SAME THING FOR PROGRESSIVE INSURANCE. AND TEXACO SHELL. SO IT ISN'T ALL AS SIMPLE AS COUNSEL WOULD HAVE YOU BELIEVE.

AND THE PROBLEM IS, THIS IS THE TIME AND THIS IS THE PLACE TO COME FORWARD WITH THE EVIDENCE TO REFUTE THE PRIMA FACIE CASE THAT HAS BEEN ESTABLISHED BY PETITIONING CREDITOR. IT HASN'T BEEN DONE. WE'RE ENTITLED TO THE RELIEF THAT WE HAVE REQUESTED.

AND JUST ONE FINAL COMMENT. MR. HAYES MENTIONS THAT WE COULDN'T FIND ANYBODY ELSE THAT WANTED MR. LOPEZ IN BANKRUPTCY. WELL, OF COURSE NOT. AND THE BEST EXAMPLE WHY IS UNION BANK. LOOK AT THE EVIDENCE OF UNION BANK. THEY GOT PAID ENTIRELY WHAT THEIR SETTLEMENT AGREED OVER TIME. THEY WERE GETTING PAID PURSUANT TO THE SETTLEMENT AGREEMENT. THEY WERE GETTING PREFERENCE PAYMENTS TO BE PRECISE. SO WHY WOULD A CREDITOR SHOOT THEMSELVES IN THE FOOT BY JOINING A PETITION THAT WOULD MAKE THEM VULNERABLE TO AVOIDANCE ACTIONS? THAT'S ONE OF THE REASONS WHY THIS PETITION WAS IMPORTANT SO THAT THERE COULD BE AN EQUALIZING DISTRIBUTION. AND THERE'S ONLY ONE ASSET THAT THAT DISTRIBUTION CAN COME FROM. AND THAT'S THE HOME, THEN IT STILL NEEDS TO BE DISTRIBUTED IN ACCORDANCE WITH THE PROVISIONS OF THE BANKRUPTCY CODE.

THAT, I THINK, YOUR HONOR, WAS BRIEFLY MY RESPONSE.

THE COURT: OKAY. MR. HAYES, ON YOUR MOTION.

MR. HAYES: YOUR HONOR, I'M NOT SURE I HAVE MUCH TO ADD OTHER THAN THAT OUR MOTION FOR SUMMARY JUDGMENT ASKS THE COURT TO ACTUALLY DISMISS THE CASE. DISMISS THE PETITION.

THE COURT: RIGHT. BASED UPON THE FACT THAT THERE IS NO EVIDENCE THAT YOUR CLIENT HAS NOT PAID HIS DEBTS AS THEY CAME DUE.

MR. HAYES: WELL, NO. BASED ON -- I MEAN, I HAVE THAT IN THERE, BUT THE FIRST BASIS IS THERE AREN'T ENOUGH PETITIONING CREDITORS. THERE'S ONLY ONE. THERE NEEDS TO BE THREE. IF THE COURT FIND NOW THAT THERE AREN'T ENOUGH, THEN THE CASE SHOULD BE DISMISSED.

THE COURT: OKAY. MR. KEEHN, ANYTHING YOU WANT TO ADD?

MR. KEEHN: YES. THERE IS, ACTUALLY. THIS IS NOT AS LENGTHY AS BEFORE BECAUSE IT'S A SIMPLER PROPOSITION. WHEN MR. HAYES FIRST INDICATED AT OUR LAST SETTLEMENT CONFERENCE THAT IT WAS HIS INTENTION TO BRING THE SECOND PART OF THE BIFURCATED PROCEEDINGS BEFORE THE COURT IN THE FORM OF A SUMMARY JUDGMENT MOTION, I PROTESTED THAT IT WAS INHERENTLY UNFAIR BECAUSE --

THE COURT: YOU DON'T NEED TO BELABOR THAT. WE'RE

GOING TO FOCUS ON THE NUMBER OF CREDITORS BECAUSE I REVIEWED THE MINUTE ORDER THAT WE HAVE A BIFURCATION AND THAT WAS JUST THE NUMBER OF CREDITORS.

MR. KEEHN: CORRECT.

THE COURT: SO YOU DON'T NEED TO SAY ANYTHING ELSE ON THE OTHER POINT.

MR. KEEHN: TO DEFEAT THE OTHER PORTION OF THE MOTION, YOU'RE CORRECT. I DON'T.

BUT WHAT HE'S TEED HIMSELF UP FOR IS THAT IS THE PROCEDURAL SCENARIO WHERE I CAN WIN, BUT HE CAN'T ON THAT MOTION. HE CAN'T BECAUSE I'M ENTITLED TO TAKE DISCOVERY. AND YET HE CAN LOSE IF THE EVIDENCE THAT HE'S BROUGHT FORWARD AND PUT HIMSELF AT RISK OF ADVERSE BY ITSELF WITHOUT GIVING US THE OPPORTUNITY TO SHOW.

THE COURT: WE'RE NOT PLAYING THAT GAME BECAUSE THE BIFURCATION WAS AS TO THE NUMBER OF CREDITORS PERIOD. SO I'M NOT ENTERTAINING THE MOTION ON PAYING DEBTS AS THEY BECAME DUE PERIOD.

MR. KEEHN: OKAY. IN THAT CASE, YOU HONOR, I REALLY HAVE NOTHING MORE TO SAY.

THE COURT: OKAY. MR. HAYES, ANYTHING IN REPLY?

MR. HAYES: NO.

THE COURT: OKAY. FIVE DAYS FROM TODAY -- WELL, ACTUALLY, IT'S GOING TO BE A LITTLE LONGER THAN THAT. JULY 3. I WANT EACH OF YOU TO SIMULTANEOUSLY FILE A

PAGE OF A LITTLE BRIEF NOT TO EXCEED FIVE PAGES THAT DISCUSSES THE ISSUE OF WHO HAS THE BURDEN OF WHETHER A 549 TRANSFER OF PROPERTY TO THE ESTATE IN TERMS OF WHETHER THAT'S SOMETHING THAT THE ASSERTER HAS OR WHETHER IT'S AN AFFIRMATIVE DEFENSE. THE LANGUAGE OF THE STATUTE IS THE TRANSFER OF PROPERTY TO THE ESTATE. SO THE QUESTION IS, ON A 549, IS THAT AN AFFIRMATIVE DEFENSE OR IS IT ANNULLED FOR A PROPONENT? OKAY. THAT'S IT. AND THEN I'LL LET YOU KNOW.

MR. KEEHN: JULY THE 3RD, YOUR HONOR?

THE COURT: YES.

MR. HAYES: ACTUALLY FILED?

THE COURT: ACTUALLY FILED. CAN YOU DO THAT? OR ARE YOU OFF FOR THE FOURTH OF JULY HOLIDAY LONG WEEKEND?

MR. HAYES: YOUR HONOR, THE ONLY PROBLEM I HAVE IS I HAVE TO SEND IT BY OVERNIGHT MAIL, WHICH MEANS I HAVE TO SEND IT FRIDAY. SO I REALLY HAVE UNTIL FRIDAY.

THE COURT: WELL, DO YOU WANT TO PUT IT OUT A LITTLE FURTHER? DO YOU WANT TO MAKE IT THE 10TH?

MR. HAYES: THE 5TH WOULD WORK. THE 5TH IS ONLY THE DAY AFTER THE 4TH OF JULY, SO I CAN MAIL IT ON MONDAY. THAT GIVES ME THE WEEKEND.

MR. KEEHN: LET'S GO TO THE 6TH OR 7TH BECAUSE MONDAYS ARE ALWAYS DISJOINTED DAYS.

THE COURT: FROM THE HOLIDAY. OKAY. SO FRIDAY THE

7TH?

MR. KEEHN: YES.

MR. HAYES: FRIDAY THE 7TH.

THE COURT: OKAY. AND THAT'S SIMULTANEOUS. NO REPLIES. NOT TO EXCEED FIVE PAGES. GOT IT? I REALIZE MR. KEEHN'S GOING TO BE CHALLENGED ON THAT.

MR. HAYES: IT'S --

THE COURT: NO APPENDICES EITHER.

MR. HAYES: NO EXHIBITS?

THE COURT: NO EXHIBITS.

MR. HAYES: JUST AS TO THE LEGAL ISSUE.

THE COURT: JUST AS TO THE LEGAL ISSUE. OKAY.

MR. HAYES: GREAT.

THE COURT: ALL RIGHT. I'LL LET YOU KNOW. AND ONCE I LET YOU KNOW, THEN WE'LL RESCHEDULE THE STATUS CONFERENCE.

MR. KEEHN: OKAY. SO JULY 6TH IS THE FILING DATE.

THE COURT: THE 7TH.

MR. HAYES: ACTUALLY FILED ON THE 7TH.

THE COURT: THAT'S THE DATE YOU SUGGESTED, MR. KEEHN.

MR. KEEHN: THAT'S FINE.

MS. WILKINSON: FILED AND SERVED?

THE COURT: RIGHT. SIMULTANEOUSLY FILED AND SERVED.

MR. KEEHN: FILED AND SERVED OR FILED AND RECEIVED

LIKE A REPLY?

THE COURT: HMMM?

MR. KEEHN: NO. I MEAN, THE STANDARD FOR A REPLY IS RECEIVED BY THE OFFICE OF THE OPPOSING PARTY.

THE COURT: NO. THIS IS FILED AND SERVED BY THE 7TH, CLOSE OF BUSINESS ON THE 7TH.

MR. HAYES: OKAY. THANK YOU, YOUR HONOR.

MR. KEEHN: THANK YOU, YOUR HONOR.

(PROCEEDINGS CONCLUDED AT 3:02 P.M.)

-OOO-

STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

I, COLLETTA BROOKS, HEREBY CERTIFY:

THAT I REPORTED IN SHORTHAND THE PROCEEDINGS HELD IN THE FOREGOING CAUSE ON THE 26TH DAY OF JUNE 2006; THAT MY NOTES WERE LATER TRANSCRIBED INTO TYPEWRITING UNDER MY DIRECTION AND THAT THE FOREGOING 36 PAGES CONTAIN A CORRECT STATEMENT OF THE PROCEEDINGS.

DATED THIS 22ND DAY OF APRIL, 2008.

____
COLLETTA BROOKS
CSR NO. 12589

DOCKET NUMBER 164-1

Redact
Rev. 03/08

United States Bankruptcy Court
Southern District of California
Jacob Weinberger U.S. Courthouse
325 West F Street
San Diego, CA 92101-6991

Telephone: 619-557-5620
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Francis J. Lopez
310 Sand Myrtle Trail
Destin, FL 32541-3429
xxx-xx-1124
No Known Aliases

Case number: 05-05926-PB7
Chapter: 7
Judge Peter W. Bowie

NOTICE OF FILING OF TRANSCRIPT AND DEADLINES

TO PARTIES IN INTEREST

YOU ARE HEREBY NOTIFIED that a transcript of the hearing held **6/26/06** was filed with the Court on 4/23/08.

Access to this transcript is restricted for five business days from the date of filing. All parties have five business days to file a Notice of Intent to Request Redaction of certain identifying information as provided in the Judicial Conference's Privacy Policy. The four identifying items are: Social Security numbers (should be redacted to show only the last four digits); birth dates (should contain only the year of birth); individuals known to be minors (should be referred to with initials); and financial account numbers (should be redacted to the last four digits).

If a Notice of Intent to Request Redaction is filed, the party then has 21 calendar days to file with the court and the court reporter, a Notice of Redaction with List of Location Identifiers. Once the transcript has been redacted and refiled with the court by the court reporter, or, when a Notice of Intent to Request Redaction is not filed by a party within 5 business days, the transcript becomes electronically available to the public.

Dated: 4/23/08

Barry K. Lander
Clerk of the Bankruptcy Court

DOCKET NUMBER 167

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA

CHIEF JUDGE PETER W. BOWIE, PRESIDING

FRANCIS J. LOPEZ) CASE NO. 05-05926-PB

1) ALLEGED DEBTOR'S MOTION FOR ORDER SETTING A DEADLINE TO ADD NEW PETITIONING CREDITORS

2) STATUS CONFERENCE ON INVOLUNTARY PETITION AND ANSWER

REPORTER'S TRANSCRIPT OF PROCEEDINGS

SAN DIEGO, CALIFORNIA
MONDAY, JANUARY 23, 2006

SAN DIEGO BANKRUPTCY REPORTERS
BY: LYNETTE ALVES
P.O.BOX 496
SOLANA BEACH, CA 92075
(858) 336-8558

APPEARANCES

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SAN DIEGO, CALIFORNIA, MONDAY, JANUARY 23, 2006, 10:30

--- O O O ---

THE CLERK: IN THE MATTER OF FRANCIS J. LOPEZ.

CONTINUED HEARINGS: ONE, ON ALLEGED DEBTOR'S MOTION FOR ORDER SETTING A DEADLINE TO ADD NEW PETITIONING CREDITORS; AND TWO, STATUS CONFERENCE ON INVOLUNTARY PETITION AND ANSWER.

APPEARANCES, PLEASE.

MR. KEEHN: GOOD MORNING, YOUR HONOR.

SCOTT KEEHN OF THE FIRM OF ROBBINS & KEEHN APPEARING ON BEHALF OF PETITIONING CREDITOR ALAN STANLEY.

MR. HAYES: GOOD MORNING, YOUR HONOR.

JOHN HAYES FOR THE ALLEGED DEBTOR.

THE COURT: I SAW YOU'RE FOR A COUPLE OTHER PETITIONING CREDITORS, TOO, NOW, AREN'T YOU?

MR. KEEHN: YES, THAT'S TRUE. I SHOULD SAY PETITIONING CREDITORS. IT'S EARLY IN THE WEEK, YOUR HONOR.

WELL, YOU STOLE MY THUNDER. WE HAVE HAD, SINCE LAST WE WERE HERE, TWO ADDITIONAL CREDITORS ADDED. ALSO, ON THE 6TH OF JANUARY, I SENT A LETTER TO MR. HAYES IN AN ATTEMPT TO COMPLY WITH OUR OBLIGATIONS UNDER LOCAL RULE 7030-2 TO AGREE UPON EXACT DATE, TIME AND LOCATION FOR THE DEPOSITION OF MR. LOPEZ.

I DIDN'T GET A RESPONSE. AND ON THE 16TH, I BELIEVE -- NO, IT WAS THE 17TH, IN THE COURSE OF AN E-MAIL THAT WAS DISCUSSING DISCOVERY RESPONSES, I INQUIRED FURTHER AS TO WHETHER OR NOT MR. LOPEZ WOULD BE WILLING TO MAKE THE TRIP HERE RATHER THAN HAVING TWO SETS OF COUNSEL TRAVEL TO FLORIDA.

ON THE 19TH I RECEIVED A REPLY TO THAT E-MAIL INDICATING THE NEGATIVE; THAT HE WAS NOT INTENDING TO BE IN CALIFORNIA ANY TIME SOON. BUT THERE WAS NO PROPOSED DATES DISCUSSED AT THAT POINT IN TIME, WHICH WAS PROBABLY JUST AS WELL BECAUSE BETWEEN THE 13TH AND THE 17TH WE RECEIVED THE WRITTEN -- FIRST WRITTEN RESPONSES TO OUR WRITTEN DISCOVERY. AND IT WILL PROBABLY NOT SHOCK YOU TO LEARN THAT WE'RE NOT ENTIRELY HAPPY WITH THE RESPONSES.

I HAVE PROVIDED MR. HAYES THIS MORNING WITH A TWENTY-TWO PAGE SUMMARY PREPARED BY MY PARALEGAL WITH RESPECT TO THE DOCUMENT PRODUCTION. AND WE INTEND TO AVAIL OURSELVES OF THE COURT'S CONFERENCE ROOMS TO DO WHAT WE CAN ABOUT MEETING AND CONFERRING AS TO THE RESPONSES. ALSO, AS TO CERTAIN PRIVILEDGE CLAIMS THAT WERE ASSERTED IN RESPONSE TO THE WRITTEN DISCOVERY. WE HAVE BOILERPLATE OBJECTIONS TO VIRTUALLY ALL OF THE DISCOVERY REQUESTS AND LARGE GROUPS OF INFORMATION THAT ARE NOT PROVIDED. AS I SAID TODAY, FOLLOWING THE HEARING, MR. HAYES AND I WILL MEET AND CONFER.

NEEDLESS TO SAY, WE NEED TO BE SATISFIED THAT THE DOCUMENT REQUESTS AND OTHER WRITTEN DISCOVERY REQUESTS HAVE BEEN FULLY AND FAIRLY RESPONDED TO BEFORE WE UNDERTAKE THE DEPOSITION OF MR. LOPEZ. WE REALLY ONLY WANT TO DEPOSE HIM ONCE; AND I'M SURE THAT THAT'S ALL THAT HE DESIRES. AND WE'RE NOT IN A POSITION AT THIS POINT IN TIME TO SET THE DATE FOR HIS DEPOSITION, SIMPLY BECAUSE WE DON'T HAVE RESPONSES TO THE DISCOVERY.

THAT'S WHERE WE ARE IN THE CASE AT THIS TIME.

THE COURT: OKAY.

MR. HAYES, I ASSUME YOU WANT TO TAKE SOME DISCOVERY AS TO THESE TWO NEW CREDITORS?

MR. HAYES: DEFINITELY. WE HAVE REASON TO BELIEVE -- I MEAN, DEFINITELY. LET ME SAY THAT.

I JUST WANT TO MAKE A COUPLE COMMENTS THOUGH THAT -- YOU KNOW, WHAT JUST IRKS ME IS THE COMMENT THAT THEY WERE BOILERPLATE OBJECTIONS. THAT IS SOMETHING, FRANKLY, I HATE AND I NEVER DO. AND I'M LOOKING AT MY RESPONSES TO INTERROGATORIES --

THE COURT: -- WELL, I DON'T HAVE ANY WAY TO RESPOND TO ANY OF --

MR. HAYES: -- I DIDN'T OBJECT TO ONE SINGLE INTERROGATORY AT ALL.

MR. KEEHN: I SHOULD HAVE BEEN MORE CLEAR.

I WAS DIRECTING THE BOILERPLATE RESPONSES COMMENT, I BELIEVE, TO THE DOCUMENT PRODUCTION. AND I CALLED THEM BOILERPLATE ONLY BECAUSE THEY'RE IDENTICAL AND REPETITIOUS.

BUT THAT'S NOT AN ISSUE THAT'S BEFORE THE COURT.

THE COURT: NOPE, IT'S NOT.

MR. HAYES: IN ANY EVENT, THE DEPOSITION -- I BELIEVE I GAVE MR -- MY CLIENT LIVES IN FLORIDA. HE DOESN'T COME TO LOS ANGELES OR SAN DIEGO. HE'S AVAILABLE WHENEVER THEY WANT, REALLY.

I GAVE MR. KEEHN DATES THAT I COULD MAKE IT.

I'VE NEVER BEEN TO FLORIDA, ACTUALLY. HE LIVES NEAR PENSACOLA --

THE COURT: AH, THE PANHANDLE.

MR. HAYES: RIGHT. I TOLD HIM I'VE SPENT QUITE A BIT OF TIME, ACTUALLY --

THE COURT: -- YOU DON'T WANT TO GO DURING HURRICANE SEASON.

MR. HAYES: THAT'S, ACTUALLY, THE POINT MY WIFE MADE BECAUSE THERE HAVE BEEN SOME --

THE COURT: OH, YEAH.

MR. HAYES: -- YOU KNOW, I GUESS, THERE'S ALWAYS RUMORS THAT ONE'S ON IT'S WAY OR SOMETHING. BUT MY WIFE HAS ASKED ME WHAT I'M GOING TO DO ABOUT THAT.

BUT IN ANY EVENT, I GAVE MR. KEEHN DATES THAT I CAN MAKE IT. I'VE ASKED MR. LOPEZ TO FIND COUNSEL IN FLORIDA, SPECIALLY IF IT HAS TO BE RIGHT AWAY.

ANYWAY, THE SUGGESTION THAT WE'RE, SORT OF, BEING OBSTREPEROUS, IS RIDICULOUS.

THE COURT: WE'LL DEAL WITH THAT WHEN I GET A MOTION.

MR. HAYES: I WILL SAY THAT MR. KEEHN HANDED ME THIS TWENTY-TWO PAGES. AND I TOLD HIM I'D LOVE TO HIRE THIS PARALEGAL HE HAS; STEAL HER AWAY FROM HIM.

BUT I -- I MEAN, IT LOOKS LIKE THE SAME THREE CHECKING ACCOUNT STATEMENTS OVER AND OVER AND OVER AND OVER. AND I REALLY -- I THINK A LOT OF THESE 'NONES' THERE AREN'T ANY. BUT ANYWAY, I HAVEN'T -- I WAS JUST HANDED THIS.

SO THAT'S -- IT SEEMS TO ME LIKE WE COULD STILL HAVE A TRIAL OVER HOW MANY CREDITORS THERE ARE, AND WEAVE INTO THAT WHETHER OR NOT THESE TWO NEW PETITIONING CREDITORS WILL ACTUALLY -- ARE ACTUALLY LEGITIMATE. I DON'T KNOW A BETTER WORD THAN LEGITIMATE. BUT I HAVE REASON TO BELIEVE THAT I DIDN'T REALIZE WHAT THEY WERE DOING.

BUT IT SEEMS TO ME LIKE WE COULD STILL HAVE A TRIAL RIGHT AWAY OVER JUST THOSE TWO ISSUES.

THE COURT: WELL, WE'RE BACK TO MY QUESTION, WHICH IS DID YOU WANT TO TAKE DISCOVERY OF THOSE TWO NEW PETITIONING CREDITORS BEFORE WE HAVE THAT HEARING?

MR. HAYES: NO. IF I CAN GET THE HEARING -- IF I CAN GET THE TRIAL RIGHT AWAY, I'LL WAIVE THE DISCOVERY, AT LEAST THE FORMAL DISCOVERY.

BUT I'LL SAY, AT LEAST, WRITTEN DISCOVERY. I SUPPOSE IF I COULD TAKE THEIR DEPOSITIONS. I DON'T -- I ASSUME THE COURT ISN'T GOING TO SET THIS IN THE NEXT TEN DAYS OR SOMETHING?

THE COURT: WELL, IT ALL DEPENDS ON WHEN YOU WANT IT.

MR. HAYES: WELL, YOU KNOW WHAT? I BROUGHT MY CALENDAR. WHAT I'D LIKE IS THREE WEEKS.

AND I MAY TRY TO TAKE THEIR DEPOSITIONS, THE DEPOSITIONS OF THE TWO -- THEY'RE LOCAL. I DON'T REMEMBER WHETHER THEY'RE L.A. OR SAN DIEGO. BUT I'LL TRY TO -- I WON'T DO ANY REQUEST FOR DOCUMENTS OR ANY OF THAT.

THANK YOU.

THE COURT: HOW MANY WITNESSES DO YOU ANTICIPATE, MR. KEEHN?

MR. KEEHN: WELL, ONE WITNESS FOR EACH CREDITOR. AND I MAY NEED THREE OR MORE TO AUTHENTICATE DOCUMENTS. WHAT I'M GIVING YOU IS AN OFF-THE-CUFF ESTIMATE.

THE COURT: ALL RIGHT.

MR. KEEHN: I HAVEN'T MULLED THAT OVER.

THE COURT: WE'RE JUST TALKING ABOUT BONA FIDE PETITIONING CREDITORS.

MR. KEEHN: I UNDERSTAND.

THE COURT: SO WE'RE TALKING LESS THAN A DAY.

MR. KEEHN: WELL, I THINK WE'RE TALKING LESS THAN A DAY. I STILL AM GOING TO NEED SOME RESPONSES TO OUR DISCOVERY.

THE COURT: WHY DO YOU NEED THAT TO PROVE WHETHER THEY'RE PETITIONING CREDITORS?

MR. KEEHN: OH, WHETHER THEY ARE -- NO.

WELL, EXCUSE ME, YOUR HONOR. YOU'RE FORGETTING, I THINK, THAT THERE ARE EXCLUSIONS. THERE'S ALSO THE ISSUE OF WHETHER THERE ARE 12 OR MORE AND WHO YOU EXCLUDE FROM THE COUNT.

AND IT GOES TO QUESTIONS OF WHETHER OR NOT SOME THAT ARE IN THE ACCOUNT -- IN THE COUNT, HAVE RECEIVED PREFERENTIAL TRANSFERS OR TRANSFERS OTHERWISE AVOIDABLE.

THE COURT: SO YOU'RE NOT -- YOUR POSITION IS YOU'RE NOT SANGUINE THAT YOU'VE BREACHED THAT BY HAVING THREE PETITIONING CREDITORS?

MR. KEEHN: WELL, YOUR HONOR, I'M ALWAYS IN FAVOR OF A FAILSAFE.

SO IF YOU WANT TO, INSTEAD OF BIFURCATE, TRIFURCATE THE TRIAL AS TO WHETHER OR NOT THE TWO NEW CREDITORS ARE LEGITIMATE, WELL, THEN THAT'S A DIFFERENT STORY. BUT THAT MOTION WASN'T MADE.

AND AS I RECALL, BIFURCATION IS WHETHER OR NOT THERE ARE SUFFICIENT PETITIONING CREDITS. AND THAT RAISES THE QUESTION OF THE NUMBER, THE LOCATION --

THE COURT: OF HOW MANY CREDITORS THERE ARE?

MR. KEEHN: YEAH. SO THAT'S WHERE WE ARE. SOME OF THESE DISCOVERY RESPONSES GO RIGHT TO THAT. SO I'M STUCK. OF COURSE HE WANTS TO GO TO TRIAL, WE DON'T HAVE THE DISCOVERY.

THE COURT: YEAH. AND I'M NOT GO TO TRIFURCATE IT. WE'LL TRY HOW MANY CREDITORS THERE ARE, AT LEAST IN TERMS OF WHETHER THERE'S 12 OR MORE; AND THEN, HAVE HOW MANY BONA FIDE PETITIONING CREDITORS THERE ARE.

SO WE'RE GOING TO NEED THE DISCOVERY RESOLVED, ONE WAY OR ANOTHER; RIGHT?

MR. KEEHN: RIGHT.

THE COURT: OKAY. AND SO YOU'RE GOING TO HAVE A MEET AND CONFER, AND THEN YOU'RE GOING BRING A MOTION, I ASSUME, IF YOU DON'T GET WHAT YOU FEEL YOU NEED?

MR. KEEHN: I HAVEN'T RULED OUT THE POSSIBILITY THAT WHEN WE REASON TOGETHER, WE'LL GET EVERYTHING.

THE COURT: AND THAT'S WHY I SAID IF.

SO WE REALLY OUGHT TO PUT THIS OUT ABOUT FORTY-FIVE DAYS.

MR. KEEHN: YES. AND THAT'S JUST AS WELL, ANYWAY, BECAUSE WHAT I WAS GOING TO TELL YOU IS I HAVE A SEVEN-DAY TRIAL IN DEPARTMENT 67 THAT BEGINS -- DOESN'T BEGIN UNTIL MARCH 3RD. BUT I THINK THE COURT CAN APPRECIATE THAT THESE LAST THIRTY DAYS BEFORE THAT TRIAL WILL HAVE ME FULLY EMPLOYED.

THE COURT: WELL, LET'S GO OUT ABOUT FORTY-FIVE OR SO ON THIS FOR STATUS. AND I'M WONDERING IF WE SHOULD PUT IT ON IN THE AFTERNOON, COUPLED WITH A TENTATIVE HEARING DATE ON A MOTION TO COMPEL.

MR. KEEHN: I WAS JUST GOING TO REQUEST THAT; YES.

THE COURT: OKAY.

DOES THAT MAKE SENSE, MR. HAYES, SO THAT WE DON'T HAVE TO KEEP COMING BACK?

MR. HAYES: SURE.

THE COURT: SOMEWHERE IN THE FORTY-FIVE TO SIXTY DAY RANGE, MARILYN.

THE CLERK: IS MARCH 20TH TOO SOON? THAT'S ABOUT FORTY-FIVE.

MR. KEEHN: IT'S CLEAR ON MY CALENDAR, YOUR HONOR.

MR. HAYES: THAT'S FINE WITH ME.

THE CLERK: AT 2:00.

THE COURT: ALL RIGHT. GOOD LUCK.

MR. HAYES: THAT'S THE STATUS CONFERENCE AND A TENTATIVE MOTION TO COMPEL?

THE COURT: TENTATIVE MOTION TO -- IF IT'S TIMELY FILED AND NOTICED.

MR. HAYES: THANK YOU.

MR. KEEHN: THANK YOU, YOUR HONOR.

STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

I, LYNETTE ALVES, OFFICIAL REPORTER, DO HEREBY CERTIFY:

THAT I REPORTED IN SHORTHAND THE PROCEEDINGS HELD IN THE FOREGOING CAUSE ON THE 23RD DAY OF JANUARY, 2006; THAT MY NOTES WERE LATER TRANSCRIBED INTO TYPEWRITING UNDER MY DIRECTION; AND, THAT THE FOREGOING TRANSCRIPT CONTAINS A CORRECT STATEMENT OF THE PROCEEDINGS.

DATED THIS ___________ DAY OF __________________, 2008.

____

LYNETTE ALVES, CSR #12534, RPR #61256

DOCKET NUMBER 167-1

Redact
Rev. 03/08

United States Bankruptcy Court
Southern District of California
Jacob Weinberger U.S. Courthouse
325 West F Street
San Diego, CA 92101-6991

Telephone: 619-557-5620
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Hours: 9:00am-4:00pm Monday-Friday

Francis J. Lopez
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No Known Aliases

Case number: 05-05926-PB7
Chapter: 7
Judge Peter W. Bowie

NOTICE OF FILING OF TRANSCRIPT AND DEADLINES

TO PARTIES IN INTEREST

YOU ARE HEREBY NOTIFIED that a transcript of the hearing held **1/23/06** was filed with the Court on 4/28/08.

Access to this transcript is restricted for five business days from the date of filing. All parties have five business days to file a Notice of Intent to Request Redaction of certain identifying information as provided in the Judicial Conference's Privacy Policy. The four identifying items are: Social Security numbers (should be redacted to show only the last four digits); birth dates (should contain only the year of birth); individuals known to be minors (should be referred to with initials); and financial account numbers (should be redacted to the last four digits).

If a Notice of Intent to Request Redaction is filed, the party then has 21 calendar days to file with the court and the court reporter, a Notice of Redaction with List of Location Identifiers. Once the transcript has been redacted and refiled with the court by the court reporter, or, when a Notice of Intent to Request Redaction is not filed by a party within 5 business days, the transcript becomes electronically available to the public.

Dated: 4/28/08

Barry K. Lander
Clerk of the Bankruptcy Court

DOCKET NUMBER 168

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA

CHIEF JUDGE PETER W. BOWIE, PRESIDING

FRANCIS J. LOPEZ) CASE NO. 05-05926-PB

1) PETITIONING CREDITORS' MOTION TO COMPEL SUPPLEMENTAL RESPONSES TO WRITTEN DISCOVERY FOR PHASE II OF THE BIFURCATED PROCEEDINGS

2) STATUS CONFERENCE ON INVOLUNTARY PETITION AND ANSWER

REPORTER'S TRANSCRIPT OF PROCEEDINGS

SAN DIEGO, CALIFORNIA
MONDAY, MARCH 12, 2007

SAN DIEGO BANKRUPTCY REPORTERS
BY: LYNETTE ALVES
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SAN DIEGO, CALIFORNIA, MONDAY, MARCH 12, 2007, 10:30

--- O O O ---

THE CLERK: IN THE MATTER OF FRANCIS J. LOPEZ. TWO

MATTERS: ONE, HEARING ON PETITIONING CREDITORS' MOTION TO COMPEL SUPPLEMENTAL RESPONSES TO WRITTEN DISCOVERY FOR PHASE II OF THE BIFURCATED PROCEEDINGS; AND TWO, CONTINUED STATUS CONFERENCE ON INVOLUNTARY PETITION AND ANSWER.

APPEARANCES, PLEASE.

MR. KEEHN: GOOD MORNING, YOUR HONOR.

SCOTT KEEHN APPEARING ON BEHALF OF THE PETITIONING CREDITORS.

MR. HAYES: GOOD MORNING, YOUR HONOR.

JOHN HAYES, H-A-Y-E-S, FOR THE ALLEGED DEBTOR.

MR. KEEHN: WELL, YOUR HONOR, IT WAS 129 DAYS AGO THAT WE FIRST PROMULGATED OUR REQUEST FOR WRITTEN DISCOVERY IN PHASE II.

IF YOU'VE HAD AN OPPORTUNITY TO REVIEW THE PAPERS THAT HAVE BEEN FILED, IT CHRONICLES THE MEET AND CONFER THAT OCCURRED, THE PROMISE TO PRODUCE SUPPLEMENTAL RESPONSES BY JANUARY 12, AND THE DISHONOR OF THAT PROMISE. AND WHEN I SAY THE DISHONOR OF THE PROMISE, I WANT IT TO BE CLEAR THAT IT IS MR. LOPEZ AND NOT MR. HAYES WHO IS DISHONORING THE PROMISES.

SO HERE WE ARE 129 DAYS LATER, BUT THERE HAS BEEN ONE INTERVENING DEVELOPMENT. SATURDAY, BETWEEN 12:05 AND 12:11 P.M. I RECEIVED FOUR E-MAILS THAT CONTAINED A NUMBER OF ATTACHMENTS, WHICH I'M ASSUMING ARE DOCUMENTS THAT PURPORT TO BE RESPONSIVE TO THE DOCUMENT PRODUCTION REQUESTS.

I NOTICED THEIR ARRIVAL LATE IN THE DAY ON

SATURDAY, BUT I'VE BEEN PREPARING FOR A VERY SUBSTANTIAL SETTLEMENT CONFERENCE IN L.A. THAT WILL HAPPEN THIS AFTERNOON. SO I HAVEN'T REALLY HAD A CHANCE TO STUDY WHAT HAS BEEN PRODUCED BY E-MAIL 127 DAYS AFTER THE INITIAL REQUESTS.

I DID NOTICE, HOWEVER, THAT A NUMBER OF THE ITEMS APPEAR TO BE PLEADINGS IN A STATE COURT ACTION THAT DATE BACK TO JULY OF 2005. AND THAT, OF COURSE, LEAVES ONE WONDERING WHY IT TAKES 127 DAYS TO COME UP WITH PLEADINGS IN A CASE AS TO WHICH YOU WERE A PARTY THAT ARE OVER YEAR AND A HALF OLD.

THIS IS ALL REMINISCENT OF THAT WHICH HAS GONE BEFORE. MR. LOPEZ NEVER RESPONDS TO DISCOVERY ON THE FIRST GO-AROUND. HE ALWAYS HAS TO BE FORCED; AND FORCED UNDER THREAT OF SOME GRIEVOUS COMPULSION.

SO HERE WE ARE WITH A MOTION THAT SHOULD NEVER HAVE BEEN FILED TO INITIATE DISCOVERY ON A SECOND PHASE. AND WE'RE HAVING THE SECOND PHASE ONLY BECAUSE MR. LOPEZ WAS SO CERTAIN THAT WE WOULD DISPOSE OF THE PROPRIETY OF HANDLING THE CASE BY A SINGLE PETITIONING CREDITOR THAT HE HAD IT BIFURCATED.

AND SO HERE WE ARE DOING WHAT PARTIES IN OPPOSITION TO MR. LOPEZ ALWAYS FIND THEMSELVES DOING, AND THAT'S BRINGING MOTIONS TO COMPEL THAT WHICH SHOULD BE GIVEN VOLUNTARILY; SIMPLE RESPONSES TO WRITTEN DISCOVERY.

NOT SURPRISING, THERE IS NO OPPOSITION FILED TO OUR MOTION TO COMPEL. THERE IS NOTHING IN THE RECORD AT

LEAST AS OF 9:26 THIS MORNING AS PACER SHOWS IT; NOTHING IN THE RECORD THAT WOULD SHOW A SUBSTANTIAL JUSTIFICATION FOR NOT RESPONDING; NOTHING IN THE RECORD THAT WOULD SHOW ANY JUSTIFICATION, SUBSTANTIAL OR OTHERWISE, AS TO WHY THE SANCTIONS OF $4,242 REQUESTED IN THE MOTION SHOULD NOT BE PAID.

AND WHAT THE RECORD SUGGESTS, WHAT THAT POSTURE OF THE RECORD SUGGESTS, IS ABSOLUTELY TRUE. THERE IS NO LEGITIMATE OPPOSITION TO THE MOTION; THERE IS NO LEGITIMATE REASON NOT TO AWARD THE SANCTIONS AS PRAYED.

SO WE WOULD REQUEST THAT THE COURT SET A DATE CERTAIN BY WHICH MR. LOPEZ MUST PROVIDE FULL RESPONSES TO THE DISCOVERY; AND THAT THE COURT AWARD THE SANCTIONS AS PRAYED ($4,242) PAYABLE BY MR. LOPEZ, AGAIN, BY A DATE CERTAIN; AND THEN, SET THE STATUS CONFERENCE OVER TO A DATE BEYOND THAT DATE CERTAIN SO WE CAN ASSESS WHERE WE ARE.

THE COURT: MR. HAYES.

MR. HAYES: THANK YOU, YOUR HONOR.

YOUR HONOR IS WELL AWARE MY CLIENT LIVES IN FLORIDA. THE REQUEST FOR DOCUMENTS -- BY THE WAY, I DIDN'T FILE A RESPONSE. I MEAN, I THINK MR. KEEHN IS CORRECT THAT HE HAS THE RIGHT TO AN ORDER COMPELLING THE DISCOVERY. BUT THERE WAS 162 CATEGORIES OF DOCUMENTS. MY CLIENT LIVES IN FLORIDA. THIS IS THE FIRST MOTION TO COMPEL IN THIS CASE, WHICH IS NOW ALMOST TWO YEARS OLD.

I'M NOT INVOLVED IN OTHER CASES WITH MR. LOPEZ. I'M NOT SURE MR. KEEHN IS EITHER. SO ALL THIS STUFF ABOUT, YOU KNOW, HE NEVER DOES ANYTHING UNTIL HE'S FORCED; I DON'T KNOW WHAT THE FOUNDATION FOR THAT IS.

BUT ALL I WOULD ASK THE COURT -- I'LL AGREE THAT AN ORDER TO COMPEL CAN BE ISSUED. AND THE TIMING AS MR. KEEHN AS REQUESTED IS OKAY. BUT I THINK $4,000 IS A LITTLE STEEP FOR THE SANCTIONS. AND IF THE COURT CAN MAKE THAT A MORE REASONABLE AMOUNT --

THE COURT: WELL, WHAT I'M GOING TO DO IS I'M GOING TO GRANT THE MOTION TO COMPEL. I'M GOING TO REQUIRE THAT RESPONSES BE SUPPLIED TO MR. KEEHN WITHIN THIRTY DAYS OF TODAY'S DATE.

AND IF THERE IS ANY NECESSARY RESOLUTION OF THE SANCTIONS MOTION, I WILL DO THAT AT SOME POINT IN TIME IN THE FUTURE. BUT AT THIS POINT IN TIME, I INTEND IT TO BE THE SORT OF DAMOCLES OVER MR.LOPEZ'S HEAD.

AND I FULLY CONTEMPLATE AT THIS POINT IN TIME AND GIVEN THE FACT THAT THERE WAS NO EFFORT FOR A PROTECTIVE ORDER, NO EFFORT FOR A CONTINUANCE TO COMPLY BECAUSE OF THE BULK OF THE REQUESTS OR ANY OF THAT KIND OF STUFF, THERE WAS ABSOLUTELY NOTHING DONE BY YOUR CLIENT; UNDER THOSE CIRCUMSTANCES AT THIS POINT IN TIME AND UNLESS I SEE SOMETHING THAT DISABUSES ME OF IT, I INTEND AT SOME FUTURE DATE TO AWARD SANCTIONS IN THAT AMOUNT. SO IT'S HE'S GOT TO EARN HIS WAY OUT OF IT, IF AT ALL. AND I'M NOT TELLING HIM THAT HE NECESSARILY CAN.

SO I WILL SIGN AN ORDER COMPELLING AND RESPONSES TO MR. KEEHN WITHIN 30 DAYS OF TODAY'S DATE. BUT IF IT

COMES DOWN TO IT, HIS CLIENT'S NOT GOING TO HAVE TO PAY FOR GOING THROUGH THIS.

MR. HAYES: SURE.

AS FAR AS THE NEXT CONTINUED STATUS CONFERENCE THEN, I HAVE TO BE BACK ON MAY 11TH IN ANOTHER MATTER. AND MR. KEEHN THOUGHT THAT WOULD WORK FOR HIM.

MR. KEEHN: YEAH, THIRTY DAYS PUTS US AT MID-APRIL. I DON'T EXPECT TO GET ANY RESPONSES AT ANYTHING OTHER THAN CLOSE TO THE DEADLINE. SO I'LL NEED SOME TIME TO ABSORB WHAT IT IS I GET BY WAY OF RESPONSE.

SO THE 9TH OF APRIL -- MAY, RATHER, WORKS FOR US AS WELL.

MR. HAYES: THE 11TH.

MR. KEEHN: I'M SORRY?

MR. HAYES: THE 11TH OF MAY.

MR. KEEHN: OH, LET ME CHECK.

MR. HAYES: IF THAT WORKS FOR THE COURT.

MR. KEEHN: IT'S CLEAR ON MY CALENDAR.

THE COURT: MARILYN?

THE CLERK: WE CAN DO THAT AT 9:30 ON MAY 11TH.

MR. HAYES: PERFECT.

MR. KEEHN: AND YOUR HONOR, MAY WE ALSO USE THAT DATE FOR ANY OTHER ENFORCEMENT ORDERS?

THE COURT: ONLY IF THEY'RE TIMELY FILED MOTIONS.

MR. KEEHN: I REALIZE THAT. BUT IF THEY ARE, MAY WE HAVE THAT DATE?

THE COURT: CONTACT MS. WILKINSON BECAUSE SHE'LL

HAVE TO BE ABLE TO TELL YOU, WHEN YOU GET TO THAT POINT IN TIME, WHETHER THERE'S ANY TIME TO DO THAT.

MR. KEEHN: FAIR ENOUGH.

THANK YOU.

MR. HAYES: THANK YOU, YOUR HONOR.

STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

I, LYNETTE ALVES, OFFICIAL REPORTER, DO HEREBY CERTIFY:

THAT I REPORTED IN SHORTHAND THE PROCEEDINGS HELD IN THE FOREGOING CAUSE ON THE 12TH DAY OF MARCH, 2007; THAT MY NOTES WERE LATER TRANSCRIBED INTO TYPEWRITING UNDER MY DIRECTION; AND, THAT THE FOREGOING TRANSCRIPT CONTAINS A CORRECT STATEMENT OF THE PROCEEDINGS.

DATED THIS ___________ DAY OF __________________, 2008.

____

LYNETTE ALVES, CSR #12534, RPR #61256

DOCKET NUMBER 168-1

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United States Bankruptcy Court
Southern District of California
Jacob Weinberger U.S. Courthouse
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Francis J. Lopez
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No Known Aliases

Case number: 05-05926-PB7
Chapter: 7
Judge Peter W. Bowie

NOTICE OF FILING OF TRANSCRIPT AND DEADLINES

TO PARTIES IN INTEREST

YOU ARE HEREBY NOTIFIED that a transcript of the hearing held **3/12/07** was filed with the Court on 4/28/08.

Access to this transcript is restricted for five business days from the date of filing. All parties have five business days to file a Notice of Intent to Request Redaction of certain identifying information as provided in the Judicial Conference's Privacy Policy. The four identifying items are: Social Security numbers (should be redacted to show only the last four digits); birth dates (should contain only the year of birth); individuals known to be minors (should be referred to with initials); and financial account numbers (should be redacted to the last four digits).

If a Notice of Intent to Request Redaction is filed, the party then has 21 calendar days to file with the court and the court reporter, a Notice of Redaction with List of Location Identifiers. Once the transcript has been redacted and refiled with the court by the court reporter, or, when a Notice of Intent to Request Redaction is not filed by a party within 5 business days, the transcript becomes electronically available to the public.

Dated: 4/28/08

Barry K. Lander
Clerk of the Bankruptcy Court

DOCKET NUMBER 169

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA

CHIEF JUDGE PETER W. BOWIE, PRESIDING

	)	
	)	
FRANCIS J. LOPEZ	)	CASE NO. 05-05926-PB
	)	
	)	
	)	

STATUS CONFERENCE ON INVOLUNTARY PETITION AND ANSWER

REPORTER'S TRANSCRIPT OF PROCEEDINGS

SAN DIEGO, CALIFORNIA
MONDAY, OCTOBER 1, 2007

SAN DIEGO BANKRUPTCY REPORTERS
BY: LYNETTE ALVES
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SAN DIEGO, CALIFORNIA, MONDAY, OCTOBER 1, 2007, 10:30

--- O 0 O ---

THE CLERK: IN THE MATTER OF FRANCIS J. LOPEZ:

CONTINUED STATUS CONFERENCE ON INVOLUNTARY PETITION AND ANSWER.

I'LL TAKE THE TELEPHONIC APPEARANCE FIRST, FOLLOWED BY THOSE IN COURT.

MR. HAYES: GOOD MORNING, YOUR HONOR.

THIS IS JOHN HAYES APPEARING FOR THE ALLEGED DEBTOR, FRANCIS LOPEZ. AND THANK YOU FOR LETTING ME APPEAR BY TELEPHONE.

THE COURT: MR. HAYES.

MR. KEEHN?

MR. KEEHN: THANK YOU, YOUR HONOR.

SCOTT KEEHN APPEARING ON BEHALF OF THE PETITIONING CREDITORS.

THE COURT: AND I SAW WHAT YOU FILED THURSDAY AND FRIDAY; BUT ONLY THIS MORNING.

MR. KEEHN: WELL, LET ME TRY AND CAPSULIZE IT FOR YOU.

WE THOUGHT WE WOULD BE HERE TODAY, READY TO SET A DATE FOR A SUMMARY JUDGMENT MOTION BECAUSE WE WOULD HAVE COMPLETED THE LAST DISCOVERY ACT REALLY NECESSARY FOR THAT; AND THAT WOULD BE THE DECLARATION OF YOUNG MR. LOPEZ. AND WE HAVE NOT TAKEN MR. LOPEZ'S DEPOSITION. AND ACTUALLY, THIS IS THE SECOND TIME THAT HE HAS FAILED TO APPEAR.

ON LATE IN THE AFTERNOON OF THE DAY BEFORE HIS DEPOSITION WAS TO OCCUR, HE COMMUNICATED THROUGH HIS COUNSEL THAT HE WOULD NOT BE ATTENDING BECAUSE HE HAD BEEN UNABLE TO MAKE TRAVEL ARRANGEMENTS FROM FLORIDA TO SAN

DIEGO FOR THAT APPEARANCE. NOW, IF HE'D ONLY STARTED ON THE DAY BEFORE, I CAN UNDERSTAND WHY HE WOULD HAVE DIFFICULTY; HOWEVER, THERE WAS WELL OVER A MONTH WHEN HE KNEW WHAT THE DATE WAS. AS I HAVE INDICATED, THIS IS HIS SECOND TIME OF, SORT OF, I FEEL LIKE CHARLIE BROWN TRYING TO KICK THE FOOTBALL WITH LUCY HOLDING. EVERY TIME WE GET UP TO DO THE KICK, THE BALL IS PULLED AWAY.

AND I THINK IT'S RELEVANT, YOUR HONOR, THAT WE REVISIT THE FIRST SANCTIONS AWARD BECAUSE WE HAVE REQUESTED $4,442 SEVERAL MONTHS AGO WHEN WE WERE TRYING TO FORCE MR. LOPEZ TO RESPOND TO WRITTEN DISCOVERY. THE COURT INDICATED THAT IT WANTED TO LEAVE THAT HANGING AS A, SORT OF, DAMOCLES --

THE COURT: I'VE READ YOUR PLEADINGS.

MR. KEEHN: OKAY. WELL, I THINK IT'S CLEAR THAT, SORT OF, DAMOCLES DOESN'T WORK. AND IT'S NOT GOING TO WORK. IT DIDN'T WORK IN PRODUCING ANY WRITTEN DISCOVERY; YOU FINALLY HAD TO ISSUE AN EVIDENTIARY SANCTION.

I DON'T THINK IT'S GOING TO WORK TO PRODUCE HIS APPEARANCE AND MEANINGFUL PARTICIPATION IN THE DEPOSITION BECAUSE IT'S JUST NOT HIS NATURE TO GO ALONG WITH THAT. WE'RE IN THE PROCESS OF PREPARING A FOLLOW-UP SANCTIONS MOTION TO RECOUP COSTS INCURRED IN PREPARING NOW TWICE FOR THE ABORTED DEPOSITION.

BUT STILL I THINK IT'S TIME THE, SORT OF, DAMOCLES FELL. AND I HAD ALERTED MR. HAYES THAT I'D BE ASKING TO YOU CUT THE STRING THAT SUSPENDS IT AND IMPOSE

THOSE SANCTIONS AT THIS TIME.

THE COURT: MR. HAYES.

MR. HAYES: YES. THANK YOU, YOUR HONOR.

FIRST OF ALL, I GOT THE 130-SOME-ODD PAGES ON FRIDAY MORNING BY E-MAIL AND I HAVE LOOKED THEM OVER. MR. LOPEZ HAS COMMITTED TO APPEAR IN SAN DIEGO ON OCTOBER 22ND. AND MR. KEEHN HAS RE-SET THE DEPOSITION DATE FOR THAT DAY.

WHAT I WOULD ASK THE COURT, AND I'M NOT SURE, I DON'T KNOW WHAT MR. KEEHN MEANS BY THE SECOND NON-APPEARANCE. BUT WHAT I WOULD ASK THE COURT IS -- HE'S GOING TO FILE A SECOND SANCTIONS MOTION ANYWAY. I WOULD ASK THE COURT TO CONSIDER THE REQUEST TODAY, AT THAT TIME, AND TO WAIT UNTIL OCTOBER 22ND, AT WHICH TIME I'M PERSONALLY CONVINCED HE WILL APPEAR IN SAN DIEGO.

BEYOND THAT, I DON'T -- I MEAN, I DON'T HAVE A SPECIFIC RESPONSE TO WHY HE SUDDENLY DIDN'T SHOW UP ON SEPTEMBER 11TH. I DON'T KNOW WHAT -- I MEAN, I DON'T SEE THE -- I GOT PROPER NOTICE, FRANKLY, OF THIS REQUEST FOR SANCTIONS. MR. KEEHN HAS ASKED FOR THESE SANCTIONS EACH OF THE LAST THREE OR FOUR HEARINGS. AND I'M NOT SURPRISED THAT HE'S ASKING AGAIN. BUT I WOULD ASK THE COURT TO PUT IT OFF UNTIL THERE'S A MOTION PENDING BEFORE YOUR HONOR.

THE COURT: WELL, IT'S BEEN HANGING OUT THERE; THAT PART IS TRUE.

MY VIEW ON THE SANCTIONS IS THAT I WILL VIEW THAT INDEPENDENTLY. I VIEW THAT IT IS NO LONGER THE, SORT OF, DAMOCLES; WHETHER OR NOT MR. LOPEZ APPEARS ON THE 22ND FOR THE DEPOSITION. I WILL ENTERTAIN ALL OF IT IN YOUR NEXT -- BECAUSE YOU SAY YOU'VE GOT YOUR NEXT ONE COMING.

YOU MAY BE RIGHT THAT THE, SORT OF, DAMOCLES HASN'T WORKED, IN WHICH CASE, ENTERING AN ORDER TODAY ON THIS KIND OF NOTICE -- I MEAN, YOU SAID YOU TOLD MR. HAYES ON THE 20TH THAT YOU WERE GOING TO BE ASKING THAT; YOU PUT IT IN PLEADINGS FILED FIRST LAST THURSDAY; SUPPLEMENTED ON FRIDAY. WE'D ALREADY REVIEWED THE FILE AT THAT POINT IN TIME AND DID NOT KNOW THAT THAT WAS COMING ON UNTIL I WENT BACK AND LOOKED AT IT AGAIN THIS MORNING. BUT I SAW IT THEN.

UNDER THOSE CIRCUMSTANCES, I'M GOING TO CONSIDER IT. AND I'LL CONSIDER IT AT OUR NEXT HEARING, WHEREVER THAT IS, WHEN YOU FILE YOUR NEXT -- YOU KNOW, ESSENTIALLY YOUR SUPPLEMENT FOR IT.

BUT I VIEW THAT THE STRING HAS BEEN SEVERED. AND SO I WILL DECIDE WHAT, IF ANYTHING, TO AWARD AS OF THIS POINT IN TIME INDEPENDENT OF WHAT COMES UP NEXT. IT'S NO LONGER INTENDED AS ESSENTIALLY A CIVIL COERCION TO GET HIM THERE. IF HE DOESN'T GET THERE, HAVING ALREADY HAD EVIDENTIARY SANCTIONS IMPOSED, THEN, YOU KNOW, WE'LL FIND SOMETHING ELSE THAT MAYBE WORKS.

MR. KEEHN: THAT'S FINE, YOUR HONOR.

WE ANTICIPATE HAVING THE MOTION, THE SUPPLEMENTAL MOTION, FILED THIS WEEK. SO PERHAPS IF WE COULD JUST GET THE DATE FOR THAT NOW SO WE CAN SAVE SOME

TIME?

THE COURT: SO SOMETIME IN THE WEEK OF, SAY, WELL, PROBABLY NOVEMBER 12TH, MARILYN, SOMETHING LIKE THAT? IS THAT A HOLIDAY OR SOMETHING?

THE CLERK: THE 12TH IS THE HOLIDAY. WE HAVE COURT ON THE 13TH.

THE COURT: BUT IS THAT THE CHAPTER 13'S?

THE CLERK: IN THE MORNING. AND THERE'S A --

THE COURT: -- CALENDAR IN THE AFTERNOON?

THE CLERK: YES, BUT IT'S A SHORT ONE.

THE COURT: SO WE COULD PUT THAT ON THE AFTERNOON OF THE 13TH.

DOES THAT WORK, MR. KEEHN?

MR. KEEHN: IT'S CLEAR ON MY CALENDAR.

THE COURT: MR. HAYES?

MR. HAYES: YOUR HONOR, ACTUALLY, I HAVE A L.A. COUNTY BAR BANKRUPTCY LUNCHEON THAT DAY. BUT, I MEAN, THAT'S THE ONLY THING I HAVE. IT WOULDN'T BE THE END OF THE WORLD IF I DIDN'T GO.

THE COURT: WELL, LET'S LOOK AT THE 19TH.

MR. KEEHN: THAT WHOLE WEEK, THE 19TH OR THE 16TH WOULD WORK.

THE COURT: WHAT ABOUT THE 19TH, MARILYN?

THE CLERK: THE AFTERNOON IS CLEAR ON THE 19TH.

THE COURT: OKAY. YOU WANT TO PUT IT AT 2:00?

THE CLERK: SURE.

MR. KEEHN: 2:00?

THE COURT: 2:00 ON THE 19TH OF NOVEMBER.

THE CLERK: AND THIS IS FOR THE SANCTIONS MOTION?

THE COURT: FOR PROPOSED SANCTIONS MOTION AND CONTINUED STATUS CONFERENCE.

MR. HAYES: GREAT.

MR. KEEHN: OKAY. THANK YOU, YOUR HONOR.

MR. HAYES: THANK YOU, YOUR HONOR.

STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

I, LYNETTE ALVES, OFFICIAL REPORTER, DO HEREBY CERTIFY:

THAT I REPORTED IN SHORTHAND THE PROCEEDINGS HELD IN THE FOREGOING CAUSE ON THE 1ST DAY OF OCTOBER, 2007; THAT MY NOTES WERE LATER TRANSCRIBED INTO TYPEWRITING UNDER MY DIRECTION; AND, THAT THE FOREGOING TRANSCRIPT CONTAINS A CORRECT STATEMENT OF THE

PROCEEDINGS.

DATED THIS ___________ DAY OF _______________, 2005.

____

LYNETTE ALVES, CSR #12534, RPR #61256

DOCKET NUMBER 169-1

Redact
Rev. 03/08

United States Bankruptcy Court
Southern District of California
Jacob Weinberger U.S. Courthouse
325 West F Street
San Diego, CA 92101-6991

Telephone: 619-557-5620
Website: www.casb.uscourts.gov
Hours: 9:00am-4:00pm Monday-Friday

Francis J. Lopez
310 Sand Myrtle Trail
Destin, FL 32541-3429
xxx-xx-1124
No Known Aliases

Case number: 05-05926-PB7
Chapter: 7
Judge Peter W. Bowie

NOTICE OF FILING OF TRANSCRIPT AND DEADLINES

TO PARTIES IN INTEREST

YOU ARE HEREBY NOTIFIED that a transcript of the hearing held **10/1/07** was filed with the Court on 4/28/08.

Access to this transcript is restricted for five business days from the date of filing. All parties have five business days to file a Notice of Intent to Request Redaction of certain identifying information as provided in the Judicial Conference's Privacy Policy. The four identifying items are: Social Security numbers (should be redacted to show only the last four digits); birth dates (should contain only the year of birth); individuals known to be minors (should be referred to with initials); and financial account numbers (should be redacted to the last four digits).

If a Notice of Intent to Request Redaction is filed, the party then has 21 calendar days to file with the court and the court reporter, a Notice of Redaction with List of Location Identifiers. Once the transcript has been redacted and refiled with the court by the court reporter, or, when a Notice of Intent to Request Redaction is not filed by a party within 5 business days, the transcript becomes electronically available to the public.

Dated: 4/28/08

Barry K. Lander
Clerk of the Bankruptcy Court

DOCKET NUMBER 170

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA

CHIEF JUDGE PETER W. BOWIE, PRESIDING

FRANCIS J. LOPEZ	) CASE NO. 05-05926-PB

DEBTOR'S MOTION TO TRANSFER CHAPTER 7 CASE TO NORTHERN DISTRICT OF FLORIDA

REPORTER'S TRANSCRIPT OF PROCEEDINGS

SAN DIEGO, CALIFORNIA
MONDAY, APRIL 7, 2008

SAN DIEGO BANKRUPTCY REPORTERS
BY: LYNETTE ALVES
P.O.BOX 496
SOLANA BEACH, CA 92075
(858) 336-8558

APPEARANCES

M. JONATHAN HAYES
LAW OFFICE OF M. JONATHAN HAYES
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SAN DIEGO, CALIFORNIA, MONDAY, APRIL 7, 2008, 10:30 A.M.

THE CLERK: IN THE MATTER OF FRANCIS J. LOPEZ. THIS IS DEBTOR'S MOTION TO TRANSFER CHAPTER 7 CASE TO NORTHERN

DISTRICT OF FLORIDA.

APPEARANCES, PLEASE.

MR. KEEHN: GOOD MORNING, YOUR HONOR.

SCOTT KEEHN APPEARING ON BEHALF OF PETITIONING CREDITORS.

THE COURT: MR. KEEHN.

MR. HAYES?

MR. HAYES: GOOD MORNING, YOUR HONOR.

JOHN HAYES, H-A-Y-E-S, FOR THE DEBTOR, FRANCIS LOPEZ.

THE COURT: ALL RIGHT.

MR. HAYES, ANYTHING YOU WANT TO ADD TO YOUR PLEADINGS?

MR. HAYES: I WOULDN'T SAY I HAVE ANYTHING TO ADD TO THE PLEADINGS. I DO HAVE A FEW COMMENTS I WOULD LIKE TO MAKE.

THE FIRST COMMENT IS THE TRUSTEE, MS. GLADSTONE, DIDN'T FILE ANYTHING. I DON'T KNOW -- I DID SEND MS. GLADSTONE A LETTER WHEN I ORIGINALLY FILED THIS MOTION AND SAID, YOU KNOW, MY CLIENT LIVES IN FLORIDA. I CAN GET HIM ON THE PHONE IF YOU WANT.

BUT ANYWAY, MS. GLADSTONE DIDN'T FILE ANY OPPOSITION TO THIS MOTION. AND I CAN ONLY SPECULATE HOW MUCH EFFORT MR. KEEHN WENT THROUGH TO GET HER TO DO THAT. BUT I ATTACHED THE SCHEDULES TO THE MOTION.

YOU KNOW, THE DEBTOR OWNS A HOUSE THAT HE HOLDS BY TENANCY-BY-THE-ENTIRETIES. HE EXEMPTED IT UNDER THE

FLORIDA CONSTITUTION. WE HAD TO GET COUNSEL IN FLORIDA. AND YOU CAN'T IMAGINE HOW LONG IT TOOK ME -- I AMENDED SCHEDULE C TO LIST THE VARIOUS EXEMPTIONS. IT WAS LIKE DOING GEOMETRY CLASS FOR ME. THE DEBTOR DOESN'T OWN ANYTHING ELSE OF ANY CONSEQUENCE.

THE -- WHAT I'D LIKE TO FOCUS ON FOR JUST A MINUTE OR TWO IS THE EVIDENCE THAT WAS PRESENTED IN OPPOSITION TO THIS MOTION. THERE'S A DECLARATION BY MR. KIPPERMAN; HE WAS THE RECEIVER OF THE PRISM CASE. I DON'T -- I CAN'T IMAGINE HOW HE THINKS THAT MAKES HIM A CREDITOR OF MR. LOPEZ. AND IN HIS DECLARATION, HE DIDN'T SAY.

HE SAID THAT HE MIGHT HAVE TO TESTIFY BECAUSE THERE MIGHT BE AN OBJECTION TO HIS CLAIM THAT, PRESUMABLY, HE'S GOING TO FILE. AND IT WOULD, SORT OF, BE A BOTHER FOR HIM TO DO THAT IN FLORIDA.

MR. AKERS FILED A DECLARATION SAYING THAT HE HAS SUBSTANTIAL CLAIMS -- THAT THE PRISM CASE WHICH WAS FILED FIVE YEARS AGO; ACTUALLY IN APRIL OF '03. FIVE YEARS AGO IT WAS FILED. AND NOW HE SAYS HE HAS SUBSTANTIAL CLAIMS IN THE PRISM CASE. FIRST OF ALL, IF THE PRISM CASE HAS CLAIMS, THAT'S DONE IN THE PRISM CASE; NOT IN THE LOPEZ CASE. BUT IT'S A LITTLE WEIRD TO ME.

HE TRIED TO CLOSE THAT CASE. HE FILED SOMETHING SAYING THERE'S NOTHING LEFT OF ANY CONSEQUENCE. AND MR. STANLEY AND MR. KEEHN WERE SUCCESSFUL IN GETTING HIM TO CHANGE HIS MIND AND, SORT OF, KEEP IT OPEN BECAUSE HE HAS THESE SUBSTANTIAL CLAIMS.

WHAT HE TALKS ABOUT IN HIS DECLARATION IS HE NEEDS TO DEFEND THE ESTATE'S CLAIM. THAT'S WHAT HE SAYS IN SEVERAL DIFFERENT CASES -- SEVERAL DIFFERENT PLACES. BUT HE -- IT WOULD BE A BOTHER FOR HIM TO HAVE TO DEFEND THE ESTATE'S CLAIM IN FLORIDA. AGAIN, I DON'T KNOW WHAT THAT MEANS. HE -- IF THERE'S A FRAUDULENT CONVEYANCE OR PREFERENCE OR SOMETHING IN THE PRISM CASE, PRISM WOULD FILE THE COMPLAINT.

MR. STANLEY FILED A DECLARATION, IT WAS ONE PAGE, BASICALLY SAYING SEE MY LAST DECLARATION. I WOULD LIKE TO REMIND THE COURT THAT HE HAS A $50,000 CLAIM; IT'S A JUDGMENT. AND WE OFFERED TO PAY THAT. WE OFFERED TO PAY EVERY CREDITOR. WE FILED THE MOTION A FEW YEARS AGO OFFERING TO SELL THE HOUSE AND PAY EVERY CREDITOR IN FULL.

NOW, ADMITTEDLY, MR. STANLEY'S CLAIM WAS GOING TO BE, YOU KNOW, HELD IN AN ESCROW ACCOUNT OR SOMETHING. BUT THAT WAS OPPOSED MIGHTILY BY MR. STANLEY. AND THERE WAS NO REQUEST OF US TO TWEAK THAT A LITTLE BIT; MAYBE IF YOU PAY US, MAYBE IF YOU ADD SOME INTEREST, MAYBE IF YOU DO IT THIS WAY OR THAT WAY. THAT WAS A OPPOSED BIG TIME.

THE REASON THAT'S IMPORTANT IS -- YOU KNOW, IT JUST SEEMS SO OBVIOUS TO ME THAT THIS IS A VENDETTA. THIS IS A PERSONAL VENDETTA BY MR. STANLEY AGAINST MR. LOPEZ. WE ARE NOT HERE BECAUSE HE WANTS TO GET PAID. AND THAT'S SORT OF THE ULTIMATE PROOF.

MR. KEEHN'S -- THE POINTS AND AUTHORITIES, I MEAN, MR. LOPEZ RESPONDED TO THOSE IN THE REPLY. BUT, I

MEAN, THE PERSONAL ASSAULT; I MEAN, HE'S SAID EVERYTHING BUT LOPEZ KICKS DOGS IN THE PARK. YOU KNOW, THE -- HE HAS BUSINESS ENTITIES HERE; I MEAN, THAT'S NOT TRUE. HE ATTENDED DEPOSITIONS; HE ATTENDED ONE DEPOSITION.

AND I'LL TELL YOU, HE REALLY FOUGHT WITH ME ABOUT FIGHTING TO COME HERE. AND I INSISTED ON BEING PAID. AND HE -- IT BECAME OBVIOUS IT WAS A LOT CHEAPER TO JUST SHOW UP. NOW THEY'RE SAYING, WELL, HE SHOWED UP. SEE, HE HAS THREE ATTORNEYS; ACTUALLY THERE'S FOUR. THERE'S A GUY NAMED RON NOYA WHO IS REPRESENTING MRS. LOPEZ HERE. HE WITHDREW BECAUSE HE'S OWED MORE MONEY THAN I AM.

MR. LOPEZ HASN'T SPOKEN TO JOE FISCHBACH IN MORE THAN A YEAR, HE STATED. ALL THESE ATTEMPTS AT SLAMMING HIM AND SAYING TO SEE ALL THESE SUBSTANTIAL CONTACTS HE HAS WITH SAN DIEGO. THERE'S NOTHING THERE. MANY TIMES THEY'RE JUST FLAT OUT FALSE.

THE ONE THING I WOULD SAY THAT HE FLED -- HE FLED SAN DIEGO. IN HIS REPLY HE SAYS THAT MR. STANLEY BRANDISHED GUNS TWICE. ONE WAS, I THINK, SEVERAL YEARS BEFORE EVEN THE PRISM CASE. I MEAN, IT WASN'T HE TRIED TO SHOOT ME OR ANYTHING. BUT HE HAD GUNS. HE HAD TO GIVE UP HIS TWENTY TWO GUNS AS PART OF THE CRIMINAL MATTER.

BUT THE REST OF THE EVIDENCE OF MR. KEEHN'S TESTIMONY WHICH IS THAT HE RECALLED THAT ONCE MR. LOPEZ APPEARED IN COURT; THAT'S TRUE. ONCE HE APPEARED IN COURT. THAT'S THE ONLY TIME I'VE EVER MET THE MAN. HE WAS HERE AT THE HEARING ON THE MOTION FOR SUMMARY JUDGMENT.

AND THERE WAS SOME ACTION GOING ON IN STATE COURT AGAINST HIS WIFE. AND THAT WAS THE SAME WEEK. AND HE CAME HERE FOR THAT.

THEN THERE'S A DECLARATION BY MR. KEEHN'S PARALEGAL SAYING BANK OF AMERICA GETS SUED ALL THE TIME IN SAN DIEGO. AND ALL THESE CREDIT CARDS, CHASE, AND WHATEVER, THEY ALL GET SUED HERE, SO THEY DON'T CARE WHERE THEY GET SUED. THAT'S THE SUM TOTAL OF THE EVIDENCE.

THIS IS DUE PROCESS. THERE'S A PRESUMPTION IN FAVOR OF THE CASE GOING FORWARD IN THE DISTRICT WHERE THE DEBTOR LIVES. AND I WOULD ASK THAT -- I WOULD SAY THAT A PRESUMPTION IS EVEN HIGHER IN THIS CASE BECAUSE MR. LOPEZ -- THIS IS AN INVOLUNTARY.

AND IT BECAME A CASE -- THE ORDER FOR RELIEF WAS ENTERED AGAINST MR. LOPEZ'S WILL. HE DIDN'T FILE THIS CASE. HE LIVES IN FLORIDA. THE CASE SHOULD GO -- DUE PROCESS REQUIRES THAT HE BE ABLE TO DEFEND HIMSELF IN THE STATE WHERE HE LIVES.

AND TO THE EXTENT THERE'S GOING TO BE ISSUES OVER THIS HOUSE, WHICH I REMEMBER MR. KEEHN MENTIONED THAT IN THE VERY FIRST HEARING THAT WE HAD, HE -- SECTION 522(O) I BELIEVE OR (O) AND (P) ARE GOING TO GIVE HIM GROUNDS TO OPPOSE THE EXEMPTION; THAT THERE'S A PRESUMPTION THAT ISSUES OVER OWNERSHIP OF A HOUSE TAKE PLACE IN THE STATE WHERE THE HOUSE IS LOCATED -- OR THE REAL PROPERTY IS LOCATED.

SO I WOULD ASK THE COURT TO -- FOR WHATEVER IT'S

WORTH, I AM GOING TO WITHDRAW IF -- I MEAN, I JUST CAN'T -- I SENT THE COURT MY STATEMENT. I DON'T KNOW WHY -- I'VE BEEN TELLING MR. KEEHN TEN TIMES I'M GOING TO HAVE TO WITHDRAW. I'M NOT GETTING PAID. HE CAN'T AFFORD THIS LITIGATION.

HE SHOULD HAVE FLORIDA COUNSEL THAT HE CAN MEET WITH REGULARLY AND PLAN HIS DEFENSE OF THESE ACTIONS THAT ARE COMING;. THAT REQUIRES THE CASE TO BE TRANSFERRED TO FLORIDA.

THANK YOU.

MR. KEEHN: YES. THANK YOU, YOUR HONOR.

WELL, OF COURSE THE TEMPTATION IS TO MEET THE ARGUMENTS HERE AT THE PODIUM HEAD-ON AND IN THE ORDER THEY WERE PRESENTED. I WILL MEET THEM HEAD-ON, BUT NOT IN THE ORDER THEY WERE PRESENTED; AND NOT FIRST, BECAUSE THEY ARE NOT THE FIRST AND MOST IMPORTANT ISSUES THAT ARE BEFORE THE COURT.

THEY ARE PERIPHERAL ISSUES AND IT'S ALL VERY INTERESTING AND I'LL ADDRESS THEM. BUT THE CORE ISSUES WERE THOSE THAT WERE RAISED IN OUR MEMORANDUM OF POINTS AND AUTHORITIES AND AS TO WHICH THE OPPOSITION IS COMPLETELY, ABSOLUTELY, TOTALLY SILENT.

AND FIRST, I THINK, AND FOREMOST OF THE ISSUES AND SOME OF THESE, THEY ALL KIND OF FOLD IN ON THE TIMELINESS ISSUE, NOWHERE IN THE REPLY MEMORANDA IS THERE ANY CRITICISM, ATTEMPT TO DEFEAT, ATTEMPT TO DISTINGUISH THE ARGUMENTS WE MAKE AS TO THE UNTIMELINESS OF THIS

MOTION.

THIS CASE HAS BEEN PENDING SINCE JUNE 30TH OF '05; WELL OVER THE TWO AND A HALF YEAR MARK WHEN THE CASE WAS FILED. AND NOT ONE SENTENCE IN EITHER THE MOVING PAPERS OR THE REPLY PAPERS ADDRESS THE ISSUE OF TIMELINESS, DESPITE THE FACT THAT IT'S TEE'D UP AS AN ISSUE IN THE OPPOSITION.

WITHIN THE AMBIT OF THE TIMELINESS QUESTION, YOU HAVE THE SUB-ISSUE, AND THIS IS FASCINATING, MOVE THE VENUE WHILE THERE'S AN APPEAL PENDING.

WELL YOUR HONOR, I'VE LOOKED, I CAN'T FIND ONE CASE THAT EVEN ADDRESSES THE ISSUE. SO I CAN'T TELL YOU WHETHER THERE'S ANY AUTHORITY PRO AND CON. THAT LEAVES US TO RETREAT TO RAW LOGIC AND REASON AS TO WHETHER OR NOT THAT'S A GOOD IDEA; WHETHER OR NOT IT'S TIMELY TO BRING A MOTION TO CHANGE VENUE AFTER ONE HAS PERFECTED AN APPEAL WHERE THE CHANGE OF VENUE WOULD TAKE THE CASE TO A CIRCUIT OTHER THAN THE CIRCUIT IN WHICH THE APPEAL IS PENDING.

YOU WON'T FIND A WORD AS TO THAT IN THE REPLY. AND I SUBMIT TO YOU THAT ALLOWING -- THAT PERFECTING THAT APPELLATE RIGHT THAT WILL BE DECIDED BY A NINTH CIRCUIT COURT IS A BENCHMARK OF THE UNTIMELINESS OF THE MOTION.

BUT THAT'S NOT ALL. HERE'S ANOTHER POINT THAT WAS SPECIFICALLY RAISED IN THE OPPOSITION AND COMPLETELY IGNORED IN THE REPLY; AND THAT IS FACT THAT THIS COURT BEING THE COURT THAT ISSUED THE $8,000-PLUS SANCTION, MONETARY DISCOVERY SANCTION, AND WHICH HAS RESERVED

ISSUES OF FURTHER MONETARY SANCTIONS, THEY'RE STILL RESERVED, SHOULD NOW ABANDON IT'S JURISDICTION OVER THE CASE AFTER HAVING HEARD OVER TWO AND A HALF YEARS OF CANTANKEROUS FIGHTING OVER MINUTIA IN DISCOVERY.

THIS COURT HAS A FIRST-HAND EXPERIENCE WITH THE CASE, THE PLAYERS, THEIR PROPENSITIES THAT IT HAS LEARNED OVER THOSE TWO YEARS. AND NOW WHAT MR. LOPEZ SUGGESTS IS THAT ALL OF THAT ACQUIRED KNOWLEDGE OUGHT TO BE IGNORED AND YOU JUST MOVE THIS AND IMPOSE THE CASE ON A JUDGE IN THE NORTH DISTRICT OF FLORIDA. WHY? BECAUSE THAT'S MORE CONVENIENT FOR MR. LOPEZ.

NOW COUNSEL SPEAKS ABOUT PRESUMPTIONS OF THE PROPRIETY OF THE PLACE OF THE VENUE SELECTED -- OR THE VENUE FOR THE DEBTOR BEING THE PLACE OF THE DEBTOR'S DOMICILE. WELL, I DIDN'T HEAR A CITATION OF AUTHORITY TO THAT. AND I WOULD SUBMIT TO YOU THAT I'LL BET WHATEVER CASE HE CITES IN SUPPORT OF THAT THEORY DOES NOT INVOLVE AN INVOLUNTARY PETITION. AN INVOLUNTARY PETITION ADDRESSES THE CREDITORS' REMEDY DIMENSION OF THE BANKRUPTCY CODE RATHER THAN THE DEBTOR RELIEF DIMENSION.

WHERE THE DEBTOR, HIMSELF, SUBMITS TO THE JURISDICTION AND SUBMITS HIS PROPERTY TO THE JURISDICTION OF THE BANKRUPTCY COURT SEEKING THAT DISCHARGE, THEN THE PREDOMINANT FACTOR IN THE CASE IS DEBTOR RELIEF, NOT CREDITOR REMEDY. AND PERHAPS THERE WOULD BE SOME LOGICAL APPEAL TO THE ARGUMENT THAT GREATER WEIGHT SHOULD BE GIVEN TO THE DEBTOR'S SELECTION OF VENUE.

WELL, THIS IS NOT A DEBTORS CASE; THIS IS A CREDITORS CASE. AND THE CREDITORS THAT SELECTED THE VENUE SELECTED IT HERE.

AND AS I POINTED OUT AS A THRESHOLD ISSUE IN OUR PAPERS, THIS NOT A CASE WHERE THE DEBTOR IS SAYING, YOU GOT THE VENUE WRONG; YOU HAVE NO RIGHT TO BE HERE.

BECAUSE WE ADDRESSED THAT ISSUE BACK IN THE LATE SUMMER, EARLY FALL OF 2005, BECAUSE THE FIRST MOVE OUT OF THE GATE FOR THIS DEBTOR WAS TO MOVE TO CHANGE VENUE. AND THAT ADDRESSED PROPRIETY OF THE CASE, THE COURT LOOKED AT IT, REALIZED THAT THE PENDENCY OF AFFILIATE; THAT IS TO SAY PRISM, MADE THIS A PROPER VENUE.

NOW THE COURT DENIED THE MOTION WITHOUT PREJUDICE. AND -- BUT THE DENIAL WITHOUT PREJUDICE DOES NOT RELIEVE THE DEBTOR OF THE DUTY OF BRINGING A TIMELY RENEWAL OF THE MOTION, IF THERE'S GOING TO BE ANY RENEWAL. THAT'S THE PART THAT THE DEBTOR IGNORES.

NOW, ON THIS TIMELINESS ISSUE, IT'S REALLY DIFFICULT TO ADDRESS WITH LABORATORY-TYPE PRECISION BECAUSE THE TIMELINESS OF THE RENEWAL OF A MOTION TO CHANGE VENUE IS SORT OF LIKE CROSSING THE MIDPOINT OF LIFE SPAN. WE ALL HAVE A MIDPOINT TO OUR LIFE SPAN. AND NONE OF US REALLY KNOW WHEN WE'VE CROSSED IT. HOWEVER, THERE COMES A POINT IN OUR LIFE WHERE WE CAN BE FAIRLY SURE THAT WE HAVE. AND I SUBMIT TO YOU THAT THIS CASE IS AN EXACT PARALLEL.

I CAN'T TELL YOU WITH THE PRECISION OF A

LABORATORY WHERE IN THE LAST ALMOST THREE YEARS WAS THAT POINT WHERE IT BECAME JUST EXACTLY TOO LATE TO RENEW THIS MOTION TO CHANGE VENUE. BUT I CAN TELL YOU WITH ABSOLUTE CERTAINTY THAT LOOKING BACK ON THE RECORD THAT WE HAVE TODAY, IT'S BEEN CROSSED, AND CROSSED LONG AGO. THE MOTION IS SIMPLY UNTIMELY.

NOW, COUNSEL DID MENTION THIS ISSUE AND MR. LOPEZ LIKES TO TALK ABOUT IT. HE WRAPS HIMSELF IN THE MANTLE OF TENANCY-BY-THE-ENTIRETIES. I'M IN FLORIDA AND, THEREFORE, THIS CASE IS TOO HARD FOR CALIFORNIA COURTS. AND BY THE WAY, THE ASSET'S NOT AVAILABLE.

WELL, MY CLIENT HAS RETAINED FLORIDA COUNSEL AS WELL. I'M NOT AN EXPERT IN FLORIDA LAW, BUT I CAN TELL YOU THAT MY UNDERSTANDING WITH REGARD TO THE ISSUES AS THEY APPLY TO THE RESIDENCE CAN BE SUMMARIZED ABOUT LIKE THIS: CONSIDERED IN A VACUUM, PROPERTY HELD IN TENANCY-BY-THE-ENTIRETIES -- AND WE DO NOT DISPUTE THAT GIVEN WE'VE SEEN THE DEED, IT DOESN'T SAY TENANCY-BY-THE-ENTIRETIES, BUT I'VE ALSO SEEN THE FLORIDA LAW THAT SAYS WHENEVER IT SAYS HUSBAND AND WIFE WITHOUT MORE, THE PRESUMPTION IS TENANCY-BY-THE-ENTIRETIES; SO WE CONCEDE THAT POINT.

THEY APPEAR TO HOLD TITLE BY TENANCY-BY-THE-ENTIRETIES. BUT THAT DOES NOT END THE INQUIRY BECAUSE IF, IN THE BANKRUPTCY CONTEXT, IF THERE ARE CREDITORS WHO WOULD ALSO -- WHO HAVE CLAIMS EQUALLY AGAINST MR. AND MRS. LOPEZ, THEN

TENANCY-BY-THE-ENTIRETIES PROPERTY IS AVAILABLE. AND IT WOULD BE AVAILABLE FOR LIQUIDATION BY THE TRUSTEE OF THIS CASE. AND WE SUBMIT TO YOU -- OF COURSE THE ISSUE ISN'T BEFORE THE COURT TODAY -- BUT THERE ARE GOING TO BE CREDITORS LIKE THAT IN THIS CASE.

NOW, I DO WANT TO ADDRESS THE VENDETTA ARGUMENT. I'M NOT GOING TO TELL YOU THAT THERE'S NO PASSION BEHIND THE PURSUIT OF THIS CLAIM BECAUSE THERE IS PASSION THAT GOES ALONG WITH THE DESIRE, THE OVERRIDING DESIRE, TO BE REPAID WHAT IS OWED.

BUT MR. HAYES IS MISTAKEN WHEN HE SAYS THAT THE STANLEY CLAIM IS A $50,000 CLAIM. NOW, THE REASON THAT HE FOCUSES ON THAT, AND THE REASON THAT HE IS MISTAKEN ON THE POINT IS BECAUSE THE ONLY CLAIM THAT HAS BEEN AT ISSUE UP UNTIL THE MOMENT THAT THE ORDER FOR RELIEF WAS ENTERED IS THAT $50,000 JUDGMENT CLAIM, BECAUSE THAT IS THE ONLY CLAIM THAT MR. STANLEY HOLDS THAT IS NOT UNDISPUTED OR NOT SUBJECT TO A REASONABLE DISPUTE.

AND IN THE CONTEXT OF THE INVOLUNTARY, THAT WAS THE ONLY CLAIM THAT GAVE HIM STANDING. SO, OF COURSE, THAT WAS THE ONLY CLAIM THAT WAS TALKED ABOUT. BUT THAT IS NOT TO SAY THAT THE UNIVERSE OF CLAIMS THAT MR. STANLEY HAS AGAINST MR. LOPEZ IS LIMITED TO THE $50,000 JUDGMENT.

AND WHEN THE DAY FINALLY COMES THAT A NOTICE IS SENT TO CREDITORS THAT THEY CAN NOW FILE THEIR CLAIMS, YOU'RE GOING TO SEE A LOT MORE THAN $50,000 WORTH OF CLAIMS FROM MR. STANLEY.

CONFUSION IS EXPRESSED AS TO THE CLAIM OF MR. KIPPERMAN. WELL, I BELIEVE WE ADDRESSED THIS EARLIER WHEN MR. KIPPERMAN JOINED AS A PETITIONING CREDITOR. AND MR. KIPPERMAN'S THEORY OF LIABILITY IS FAIRLY CLEAR. THE APPOINTMENT -- HIS APPOINTMENT AS STATE COURT RECEIVER WAS MADE PURSUANT TO A STIPULATION EXECUTED BOTH BY MR. STANLEY AND MR. LOPEZ. IN OTHER WORDS, THEY BOTH REQUESTED THAT HE SERVE AS A RECEIVER.

BEFORE HIS TASK AS RECEIVER COULD BE COMPLETED, JURISDICTION WAS HIJACKED INTO THE BANKRUPTCY COURT BY THREE CREDITORS FRIENDLY TO MR. LOPEZ. AND MR. KIPPERMAN WAS LEFT HOLDING THE PROVERBIAL BAG AS TO HIS FEES.

THERE IS CASE LAW, AND I BELIEVE -- WELL, NO, I'M NOT GOING TO SAY THAT. I THINK WE MAY HAVE CITED IT IN EARLIER CASES WHERE WE WERE TALKING ABOUT MR. KIPPERMAN JOINING THAT SHOWED THAT UNDER CALIFORNIA LAW WERE A PARTY REQUESTS THE APPOINTMENT OF A RECEIVER AND THERE IS A SHORTFALL IN HIS ESTATE, THE PARTY AT WHOSE REQUEST THE RECEIVER IS APPOINTED, CAN BE LIABLE FOR THOSE FEES. THAT'S MR. KIPPERMAN'S CLAIM.

AND OF COURSE, HE'S IDENTIFIED AS A CREDITOR IN THIS CASE, BUT AS ONE THAT IS DISPUTED; WHICH MEANS, FOR SURE, HE'S GOING TO FACE A CHALLENGE.

THERE'S ANOTHER INTERESTING POINT AND I'M GLAD THAT COUNSEL REFERS TO THE AKERS DECLARATION BECAUSE PARAGRAPH 3(B) OF THAT DECLARATION, SORT OF, POINTS TO A

LARGER PROBLEM IN THIS CASE THAT RELATES TO THE SCHEDULES.

MR. AKERS IN PARAGRAPH 3(B) OF HIS DECLARATION POINTS OUT THAT HE WAS NEVER SERVED WITH NOTICE OF THE MOTION TO CHANGE VENUE, DESPITE THE FACT THAT MR. LOPEZ KNOWS OF THE PENDENCY OF THE CASE, AND DESPITE THE FACT THAT MR. LOPEZ IS AWARE THAT THERE ARE PREFERENCE AND FRAUDULENT TRANSFER CLAIMS.

NOW, MR. HAYES DIDN'T ACTUALLY SAY IT, BUT AT LEAST FROM WHERE I WAS SITTING, IT WAS PRETTY CLEARLY IMPLIED THAT A CASE AS OLD AS PRISM CAN'T HAVE ANY LIVE AVOIDANCE CLAIMS BECAUSE THE TWO YEAR STATUTE HAS RUN. AND THAT WAS HIS POINT IN MENTIONING HOW EARLY ON THAT CASE WAS FILED.

WELL, ALL OTHER FACTORS BEING EQUAL, THERE IS A TWO YEAR STATUTE ON THOSE AVOIDANCE CLAIMS. BUT IF YOU LOOK AT THE DOCKET OF BOTH CASES, YOU NOTE A COUPLE OF THINGS. FIRST, YOU NOTE THAT THE PRISM CASE WAS FILED IN JULY OF 2003. THIS CASE WAS FILED ON JUNE 30TH, 2005, BEFORE THE TWO YEAR STATUTE RAN. AND OF COURSE, WE ALL KNOW THAT WHAT IMMEDIATELY SPRANG INTO EFFECT WAS THE AUTOMATIC STAY.

AND EVEN IF CASE LAW DIDN'T TELL US THAT THE ACTION IS TOLLED UNDER NORMAL TOLLING PRINCIPLES WHILE THE STAY IS IN EFFECT, SECTION 108 TELLS US SOMETHING THAT'S PRETTY COMPARABLE BY EXTENDING THE STATUTE OUT TO A COUPLE OF, I BELIEVE, 60 DAYS BEYOND THE TERMINATION OF THE CASE.

SO THE IDEA THAT MR. ACRES CLAIMS ARE ANYTHING

BUT LIVE AND VIABLE IS JUST A MISTAKEN NOTION. THEY APPROACH THE $200,000 LEVEL. THE FACTUAL BACKGROUND OF THOSE CASES MAY SUPPORT 523 LITIGATION. AND NOW THAT WE TOUCH ON THE SUBJECT OF LITIGATION, BE IT 523, 727, 547 OR 549; ALL OF THE FORESEEABLE LITIGATION THAT IS GOING TO BE CONDUCTED IN THIS CASE WILL ARISE OUT OF AND RELATE TO ACTS, OMISSIONS, OCCURRENCES, EVENTS THAT OCCURRED RIGHT HERE IN THE COUNTY OF SAN DIEGO. AND WHERE DO YOU SUPPOSE THOSE WITNESSES WILL BE? NOT IN THE NORTHERN DISTRICT OF FLORIDA.

I WANT TO ADDRESS AN ISSUE ABOUT THE SCHEDULES BECAUSE I THINK -- AND AGAIN, THIS IS MORE BY IMPLICATION THEN OVERT ARGUMENT -- THIS IMPLICATION IS THIS IS A SMALL CASE, WE'VE GOT A FEW CREDITORS, AND IT'S NOT A BIG DEAL.

WELL, THERE ARE A COUPLE OF CRUCIAL MISTAKES THAT RELATE TO THE SCHEDULES. AND IN THIS INSTANCE, I'M GLAD THAT THE TRUSTEE IS IN THE ROOM TO HEAR THIS BECAUSE IT WILL BE SOMETHING THAT I'M SURE SHE'LL WANT TO FOCUS ON; AND THAT IS THE SCHEDULES, THEMSELVES, AS THEY ARE PRESENTLY FILED, EVEN AFTER THE AMENDMENT, ARE FATALLY DEFECTIVE.

AND THE REASON THAT THEY ARE FATALLY DEFECTIVE IS THEY DO NOT ADDRESS THE FINANCIAL CONDITION OF THE DEBTOR AS OF THE PETITION DATE. IT'S PRETTY CLEAR READING THROUGH, THEM THEY ADDRESS FINANCIAL CONDITION OF THE DEBTOR AS OF THE DATE THAT THE ORDER FOR RELIEF WAS ENTERED.

NOW, THAT'S IMPORTANT ESPECIALLY WHEN YOU GET TO THE QUESTION THREE IN THE STATEMENT OF AFFAIRS THAT BASICALLY ASKS YOU TO OUTLINE FOR THE TRUSTEE ALL THE TARGET DEFENDANTS THAT THERE MIGHT BE FOR PREFERENCE RECOVERIES BECAUSE THE 90 DAY LOOKBACK PERIOD THAT'S ADDRESSED IN THE SCHEDULES AS FILED RUNS FROM THE ORDER FOR RELIEVE DATE. AND SO OF COURSE THE TRUSTEE IS BLIND AS TO THE REAL PREFERENCES; THOSE THAT OCCURRED WITHIN 90 DAYS OF THE JUNE 30TH PETITION DATE OR WITHIN ONE YEAR OF THAT DATE AS IT RELATES TO THE INSIDERS, AND INSIDERS THERE ARE.

BUT IN ANY EVENT, THE PROPERTY HOLDINGS OF THE DEBTOR NEED TO BE REVISED IN THE SCHEDULES TO REFLECT THAT ASPECT.

NOW, WHAT I FOUND VERY CURIOUS ABOUT THE ARGUMENT THAT I HEARD THIS MORNING AT THE PODIUM WAS RAISING FOR THE FIRST TIME AND AGAIN WITHOUT CITATION TO ANY AUTHORITY WHATSOEVER, THE FACT THAT THIS CASE TURNS ON DUE PROCESS. WELL, NOT ONE OF THE THREE CASE AND OF COURSE THERE WERE ONLY THREE CASES CITED BY THE DEBTOR IN SUPPORT OF THIS MOTION, NOT ONE OF THEM IS A DUE PROCESS CASE.

SO I'M A LITTLE MYSTIFIED AS TO WHERE WE GOT INTO THAT FOCUS. BUT THAT'S ALL RIGHT BECAUSE I'M PREPARED TO ADDRESS IT. AND I THINK THAT IT IS AS A RED A HERRING AS THE COURT WILL EVER SEE.

FIRST OF ALL, THIS DEBTOR HAS NEVER -- WITH THE POSSIBLE EXCEPTION AS A COROLLARY ARGUMENT TO HIS INITIAL

CHANGE OF VENUE MOTION -- HAS NEVER SUGGESTED THAT HIS DUE PROCESS RIGHTS WERE BEING TRAMPLED ON BY HAVING TO RESPOND TO THE INVOLUNTARY PETITION HERE. AS A MATTER OF FACT, HE'S MADE APPEARANCES -- HE'S APPEARED THROUGH COUNSEL; HE'S -- WE'VE TRAVELED TO FLORIDA TO TAKE HIS DEPOSITION; HE'S RESPONDED, NOT ADEQUATELY, BUT HE'S RESPONDED TO DISCOVERY; HE'S MADE TRIPS TO SAN DIEGO.

THERE'S A CASE THAT IS PENDING IN THE DISTRICT COURT AT THIS MOMENT THAT NAMES AN ENTITY THAT HE OR HIS WIFE CONTROL -- AND HIS WIFE AS DEFENDANTS, WHERE HE HAS -- HIS WIFE HAS, AND THIS IS AN INTERESTING PROCEDURAL MOVE -- SUBSTITUTED IN AS HER ATTORNEY IN FACT IN THE CASE BECAUSE SHE'S TOO MENTALLY DISTRESSED TO DEAL WITH IT.

NEVER, NEVER IS THERE A SUGGESTION THAT HIS ABILITY TO PRESENT EVIDENCE, TO MAKE ARGUMENTS HAS BEEN SLIGHTED IN THE LEAST, MUCH LESS TRAMPLED UPON TO THE EXTENT THAT IT REQUIRES A CHANGE IN VENUE.

THAT BRINGS US TO THE CITATIONS OF AUTHORITIES THAT ARE MENTIONED IN THE MOVING PAPERS. AND IT'S INTERESTING BECAUSE ANOTHER AREA OF SILENCE IN THE REPLY AND IN THE ARGUMENT THAT'S BEEN MADE HERE TODAY IS A RESPONSE TO THE CONTENTIONS THAT WE ADVANCED, THE ARGUMENTS, THE EXPLANATION WE ADVANCED AS TO WHY NOT ONE OF THOSE THREE CASES SUPPORTS THE PROPOSITION THAT THIS CASE SHOULD -- THE VENUE OF THIS CASE SHOULD BE TRANSFERRED.

AS A MATTER OF FACT, THE *DONALD* CASE THAT IS SORT

OF THE PREMIER, THE CROWN JEWEL OF THE ARGUMENT WOULD REALLY ARGUE EXACTLY THE OPPOSITION BECAUSE WHEN YOU DISTILL THAT CASE TO IT'S ESSENCE, WHAT IT SAYS IS YOU SHOULD -- THE VENUE FOR THE CASE SHOULD BE WHERE MOST OF THE CLAIMS AROSE. AND IN THAT CASE, IT WAS THE STATE OF GEORGIA.

AND OF COURSE, THE *FRELIN* CASE IS ALL DICTA IN THE COURT, ADMITS THAT IT'S DICTA BECAUSE THAT CASE WAS DECIDED ON ABSTENTION GROUNDS.

AND THEN, OF COURSE, THERE'S THE *HECHINGER INVESTMENT* CASE WHERE THE DEFENDANT WANTS TO MOVE THE CASE TO HOUSTON BECAUSE THAT'S WHERE THE INVOICE THAT GIVES RISE TO THE PREFERENCE CLAIM CAME FROM.

AND THE INTERESTING PART ABOUT THAT CASE IS THAT WHEN YOU LOOK AT THE COURT'S ANALYSIS -- AND THERE, THE COURT GOES THROUGH A VERY DETAILED ANALYSIS ON 12 POINTS TO LOOK AT. BUT WHEN YOU LOOK AT THE ANALYSIS, IT FAVORS KEEPING THE CASE HERE.

YOU'RE NOT GOING TO HAVE LITIGATION OVER THE CREDIT CARDS THAT MR. LOPEZ ADMITS ARE OWED; YOU'RE GOING TO HAVE LITIGATION ARISING OUT OF ISSUES AS TO PREFERENCE, FRAUDULENT TRANSFER, DISCHARGEABILITY, ENTITLEMENT TO DISCHARGE, THAT ALL RELATE TO WHETHER OR NOT -- THAT ALL RELATE TO, SORT OF, THE COLLAPSE OF PRISM. BECAUSE THAT'S WHAT ALL OF THIS -- ALL OF THE LITIGATION THAT'S MENTIONED IN ANY OF THE PAPERS REALLY IS AN OUTGROWTH OF THE COLLAPSE OF THE PRISM BUSINESS. AND THAT BUSINESS WAS CONDUCTED

RIGHT HERE IN SAN DIEGO. ALL OF THE WITNESSES WILL BE HERE.

AND I THOUGHT IT WAS INTERESTING, TOO, THAT IN THE END, THE COURT IN THAT CASE -- AND OH, BY THE WAY, FORCING -- IN THAT CASE IT WAS A DEBTOR IN POSSESSION, A REORGANIZED DEBTOR -- FORCING THE REORGANIZED DEBTOR TO GO ALL THE WAY TO HOUSTON TO LITIGATE THIS CASE. THAT'S GOING TO BE A DRAIN ON THE ASSETS OF THE ESTATE AND WILL INEVITABLY REDUCE THE AMOUNTS AVAILABLE TO DISTRIBUTE TO CREDITORS. WELL, AND THAT'S A FACTOR THAT WE HAVE HERE.

THESE CREDITORS THAT ARE PURSUING MR. LOPEZ AND HIS ASSETS -- AND WE DO NOT CONCEDE THAT THE ASSETS THAT ARE SCHEDULED ARE THE ONLY ASSETS THAT WILL BE AVAILABLE -- THERE WILL BE LITIGATION ON THAT AS WELL. IT ALL CENTERS AROUND A BUSINESS THAT FAILED HERE. AND EVERYTHING, EVERY FACTOR THAT SHOULD BE CONSIDERED IN CONNECTION WITH THE TRANSFER OF VENUE ALL SPEAKS TO KEEPING IT HERE, WHERE THESE WITNESSES ARE.

I DON'T THINK -- MR. AKERS HAS NOW DISTRIBUTED HIS ESTATE. AND SO HE'S UNLIKELY TO HIRE FLORIDA COUNSEL. MR. KIPPERMAN, I DON'T KNOW IF HE WOULD OR NOT. BUT THE POINT IS, THEY SHOULDN'T BE PUT TO THAT BURDEN.

WE'RE NOW ALMOST THREE YEARS AFTER THE VENUE HAS BEEN SELECTED. AND A LOT OF WATER UNDER THE BRIDGE. AND ONLY AT THE LAST MINUTE, THIS CHANGE IN VENUE MOTION, WHICH IS REALLY, I THINK, TRANSPARENT. AND THERE'S BEEN TALK OF TRANSPARENCY ON BOTH SIDES, BUT I THINK THE

TRANSPARENCY ON THE DEBTOR'S SIDE IS THAT IT ALLOWS YOU, NOW, TO SEE HIS STRATEGY, HIS OVERARCHING STRATEGY, IN ADDRESSING THE CLAIMS THAT ARE THE FALLOUT OF THE FAILED PRISM BUSINESS; AND THAT IS DELAY, HINDER THE CREDITORS IN FINDING THEIR EVIDENCE, DON'T GIVE THEM ANY DISCOVERY THAT'S MEANINGFUL, VOLUNTARILY FORCE THEM TO PRESS THE DISCOVERY MOTIONS TO THE POINT THAT THE COURT LOOSES ALL PATIENCE AND ULTIMATELY ENTERS THE ULTIMATE SANCTION, TERMINATING SANCTION.

OKAY. MAKE THEM SPEND THEIR MONEY TO DO THAT, HOPE YOU WEAR THEM OUT, BUT IF YOU DON'T WEAR THEM OUT, LET'S MOVE IT TO FLORIDA, AND MAKE THEM RE-EDUCATE A FLORIDA BANKRUPTCY JUDGE AS TO HOW UNCOOPERATIVE AND HOW UNWILLING TO DISCHARGE THE DUTIES OF A LITIGANT, YOUNG MR. LOPEZ, REALLY IS.

WELL, THERE'S NO NEED TO RE-EDUCATE A FLORIDA JUDGE ON THOSE ISSUES. THIS COURT HAS HISTORY. AND I SUBMIT TO YOU THAT IT WOULD BE A GREAT TRAVESTY TO ALLOW MR. LOPEZ'S OVERARCHING STRATEGY OF HINDER; DELAY; ENHANCE THE EXPENSE; AND THEN AT THE LAST MINUTE, LIKE LUCY WITH THE FOOTBALL, PULL IT OUT FROM CHARLIE BROWN AND MAKE HIM GO TO FLORIDA.

THAT, YOUR HONOR, IS WRONG; THIS MOTION SHOULD BE DENIED.

THE COURT: MR. HAYES.

MR. HAYES: YOUR HONOR, MY RESPONSE WILL BE BRIEF.

ON THE TIMELINESS ISSUE, I FILED THE MOTION, THIS

MOTION, JUST A FEW WEEKS AFTER THE ORDER FOR RELIEF WAS ENTERED.

THE MOTION THAT WE FILED AT THE BEGINNING OF THE INVOLUNTARY CASE NEVER SAID THAT THE VENUE HERE WAS NOT PROPER BECAUSE OF THE PRISM CASE. AT THE OUTSET, VENUE IS PROPER, THEN IT JUST BECOMES A BALANCING FACTOR.

THE COURT RULED AGAINST THE TRANSFER. AND NOTHING EVER CHANGED AFTER THAT. I MEAN, THERE'S -- THAT I COULD COME IN AND ASK THE COURT, TRANSFER IT AGAIN, SOMETHING'S DIFFERENT, SOMETHING'S HAPPENED NOW. I MEAN, AN INVOLUNTARY ONLY HAS TWO ISSUES: THE NUMBER OF CREDITORS AND WHETHER HE'S PAYING HIS DEBTS AS THEY BECOME DUE. ONCE THE CASE BECAME A LIVE CHAPTER SEVEN, THERE'S A THOUSAND THINGS IN PLAY RIGHT NOW.

SO I MEAN, I JUST, I CAN'T -- I CAN'T COMPREHEND THE TIMELINESS ARGUMENT.

AND DUE PROCESS, I MEAN, THAT'S WHAT THIS COMES TO, IS DUE PROCESS.

MR. LOPEZ NEEDS FAIR, THE REASONABLE ABILITY TO DEFEND HIMSELF, WHICH MEANS HAVING AN ATTORNEY THAT KNOWS THE LAW AND THE SPECIFICS OF FLORIDA LAW BECAUSE PROPERTY OF THE ESTATE IS GOING TO BE AN ISSUE.

THE ONLY OTHER COMMENT THAT I REALLY THINK I NEED TO COME UP WITH IS THIS $50,000 CLAIM. WE KNOW THAT MR. STANLEY THINKS MR. LOPEZ OWES HIM ZILLIONS. BUT HE GOT A JUDGMENT FOR $50,000. THAT WAS GOING TO BE SET INTO ESCROW, IN FULL WITH INTEREST. THE CASE WOULD HAVE BEEN

DISMISSED.

THE CASE THAT WAS THEN PENDING IN SAN DIEGO, WHICH I BELIEVE IS STILL PENDING, WOULD HAVE PROCEEDED. THERE WOULD HAVE BEEN A TRIAL. THERE COULD BE ALL THIS FIGHTING IN SAN DIEGO OVER THAT CASE. THEY DIDN'T WANT TO DO THAT. THEY WANTED MR. LOPEZ IN FRONT OF THIS COURT. THEY DIDN'T WANT TO BE PAID. THEY WANT TO BE ABLE TO USE THE BANKRUPTCY COURT TO BLUDGEON HIM INTO SUBMISSION, INTO LOSING HIS HOME.

DOES THE COURT HAVE ANY QUESTIONS?

THE COURT: NOPE.

MR. HAYES: THANK YOU.

THE COURT: I WILL LET YOU KNOW.

MR. KEEHN: THANK YOU, YOUR HONOR.

MS. GLADSTONE: YOUR HONOR?

THE COURT: MS. GLADSTONE.

MS. GLADSTONE: I HAVE A CONTINUED 341 HEARING ON APRIL 9TH SCHEDULED FOR THIS CASE, CONTINUED AT -- JUST BASED ON THE REPRESENTATIONS OF COUNSEL THAT THEY WERE HAVING THIS HEARING. AND OF COURSE, THE DEBTOR DID NOT APPEAR AT THE INITIAL 341 HEARING.

I'M NOT SURE WHAT TO DO AT THIS POINT.

THE COURT: WELL, IT WON'T BE DECIDED BY APRIL 9TH.

MS. GLADSTONE: NO, I'M ASSUMING THAT. SO WE'LL JUST CONTINUE TO CONTINUE THE 341 AND EXTEND --

THE COURT: YOU'VE GOT TO DO WHAT YOU'VE GOT TO DO.

MS. GLADSTONE: OKAY. THANK YOU, YOUR HONOR.

MR. KEEHN: FOR THE RECORD, WE WERE THE ONLY PARTIES, I BELIEVE, THAT SHOWED UP. AND WE HAVE NO OBJECTION TO CONTINUING THE 341 UNTIL AFTER THE COURT'S RULING HAS BEEN MADE.

MS. GLADSTONE: OKAY. THANK YOU, YOUR HONOR.

MR. HAYES: THANK YOU, YOUR HONOR.

THE COURT: WE WILL BE IN RECESS.

STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

I, LYNETTE ALVES, OFFICIAL REPORTER, DO HEREBY CERTIFY:

THAT I REPORTED IN SHORTHAND THE PROCEEDINGS HELD IN THE FOREGOING CAUSE ON THE 7TH DAY OF APRIL, 2008; THAT MY NOTES WERE LATER TRANSCRIBED INTO TYPEWRITING UNDER MY DIRECTION; AND, THAT THE FOREGOING TRANSCRIPT CONTAINS A CORRECT STATEMENT OF THE PROCEEDINGS.

DATED THIS ___________ DAY OF _______________, 2008.

LYNETTE ALVES, CSR #12534, RPR #61256

DOCKET NUMBER 170-1

Redact
Rev. 03/08

United States Bankruptcy Court
Southern District of California
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Francis J. Lopez
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No Known Aliases

Case number: 05-05926-PB7
Chapter: 7
Judge Peter W. Bowie

NOTICE OF FILING OF TRANSCRIPT AND DEADLINES

TO PARTIES IN INTEREST

YOU ARE HEREBY NOTIFIED that a transcript of the hearing held **4/7/08** was filed with the Court on 4/28/08.

Access to this transcript is restricted for five business days from the date of filing. All parties have five business days to file a Notice of Intent to Request Redaction of certain identifying information as provided in the Judicial Conference's Privacy Policy. The four identifying items are: Social Security numbers (should be redacted to show only the last four digits); birth dates (should contain only the year of birth); individuals known to be minors (should be referred to with initials); and financial account numbers (should be redacted to the last four digits).

If a Notice of Intent to Request Redaction is filed, the party then has 21 calendar days to file with the court and the court reporter, a Notice of Redaction with List of Location Identifiers. Once the transcript has been redacted and refiled with the court by the court reporter, or, when a Notice of Intent to Request Redaction is not filed by a party within 5 business days, the transcript becomes electronically available to the public.

Dated: 4/28/08

Barry K. Lander
Clerk of the Bankruptcy Court